

EXHIBIT 20

1 IKIMULISA LIVINGSTON
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----X
5 AUSTIN FENNER and IKIMULISA LIVINGSTON,

6 Plaintiffs,
7 -against- 09 Civ. 9832
8 (BSJ) (RLE)
9 NEWS CORPORATION, NYP HOLDINGS, INC., d/b/a
10 THE NEW YORK POST and DAN GREENFIELD and
11 MICHELLE GOTTHELF,

12 Defendants.
13 -----X

14 VIDEOTAPED DEPOSITION OF IKIMULISA LIVINGSTON
15 New York, New York
16 Friday, January 13, 2012

17
18 REPORTED BY: BARBARA R. ZELTMAN
19 (BOBBIE)
20 Professional Stenographic Reporter

21 Job Number: 45412
22
23
24
25

<p style="text-align: right;">Page 38</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 day.</p> <p>3 Q Then how is it that you are</p> <p>4 testifying under oath what the employees who</p> <p>5 were working in the Police Shack on that day</p> <p>6 were instructed to do?</p> <p>7 A Because the person I spoke to in</p> <p>8 the Police Shack told me that no one had</p> <p>9 assigned anyone to work on that story in the</p> <p>10 Police Shack.</p> <p>11 Q And who did you speak with in the</p> <p>12 Police Shack?</p> <p>13 MR. THOMPSON: Objection.</p> <p>14 A I don't recall who I spoke to at</p> <p>15 that time.</p> <p>16 Q Do you recall when the time was</p> <p>17 that you spoke to the person?</p> <p>18 MR. THOMPSON: Objection.</p> <p>19 A Do you mean the time of day?</p> <p>20 Q I mean was it contemporaneously,</p> <p>21 was it the day this was happening?</p> <p>22 A It was the day I was assigned to</p> <p>23 the story, yes.</p> <p>24 Q But you don't recall who it was?</p> <p>25 A No, I don't.</p>	<p style="text-align: right;">Page 39</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q Okay.</p> <p>3 So you were telling me that -- we</p> <p>4 just got sidetracked a bit -- that Dan</p> <p>5 Greenfield gave you assignments to stories</p> <p>6 that were not going to appear in the paper.</p> <p>7 Is there anything else that you</p> <p>8 believe demonstrates how Dan Greenfield</p> <p>9 discriminated against you on the basis of</p> <p>10 race that you didn't already describe in</p> <p>11 connection with how you think Ms. Gotthelf</p> <p>12 discriminated against you?</p> <p>13 A Dan Greenfield spoke to me in a</p> <p>14 very demeaning, disrespectful, demoralizing</p> <p>15 way.</p> <p>16 He speaks to me in a very</p> <p>17 dismissive way, in a callus way.</p> <p>18 He talks to me like I don't matter</p> <p>19 and my distributions don't matter. And he's</p> <p>20 intimidating and is a bully.</p> <p>21 Q How often do you speak to</p> <p>22 Mr. Greenfield?</p> <p>23 A Almost daily. Almost daily when</p> <p>24 I'm working.</p> <p>25 Q Are these conversations in person</p>
<p style="text-align: right;">Page 40</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 or over the telephone?</p> <p>3 A They're over the telephone, for the</p> <p>4 most part.</p> <p>5 Q When did Mr. Greenfield start</p> <p>6 speaking to you in this manner which you</p> <p>7 think is discriminatory?</p> <p>8 A He's always pretty much spoken to</p> <p>9 me that way.</p> <p>10 Q How many years have you worked with</p> <p>11 Mr. Greenfield?</p> <p>12 A I worked with him for I believe as</p> <p>13 long as he's been an employee at the Post.</p> <p>14 Q Do you know how many years that is?</p> <p>15 A I don't know how long he's been an</p> <p>16 employee of the Post.</p> <p>17 Q Have you ever complained to anyone</p> <p>18 at the Post about the way Mr. Greenfield</p> <p>19 speaks to you?</p> <p>20 A I complained of racial -- excuse</p> <p>21 me.</p> <p>22 I've complained about racial</p> <p>23 discrimination.</p> <p>24 Q Who did you complain to about</p> <p>25 racial discrimination at the Post?</p>	<p style="text-align: right;">Page 41</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A I complained to Michelle. I've</p> <p>3 complained to the HR Department, and I've</p> <p>4 complained in my evaluations.</p> <p>5 Q I'm sorry?</p> <p>6 A In my evaluations.</p> <p>7 Q In your evaluation.</p> <p>8 And these are the times that you</p> <p>9 complained about how Mr. Greenfield speaks</p> <p>10 to you?</p> <p>11 A Those are the times that I have</p> <p>12 complained about racial discrimination</p> <p>13 against me.</p> <p>14 Q But my question was: Have you ever</p> <p>15 complained to anyone at the Post about the</p> <p>16 way Mr. Greenfield speaks to you?</p> <p>17 A Have I specifically?</p> <p>18 Q Correct.</p> <p>19 Have you specifically complained to</p> <p>20 anyone at the Post about how Mr. Greenfield</p> <p>21 speaks to you? That was the question.</p> <p>22 A I have not specifically stated to</p> <p>23 anyone at the Post about how he spoke to me.</p> <p>24 Q Are you aware of the complaint</p> <p>25 procedure at the New York Post?</p>

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1 IKIMULISA LIVINGSTON

2 A Yes, I am.

3 Q When did you first become aware of
4 the New York Post Human Resources
5 Department?

6 A I don't recall.

7 Q Well, did you become aware of the
8 New York Post Human Resources Department in
9 the last five years?

10 A I don't recall.

11 Q Well, do you know who currently is
12 the head of the New York Post HR Department?

13 A No. I'm not one hundred percent
14 sure on that.

15 Q Well, you mentioned a short while
16 ago that you complained about race
17 discrimination to HR.

18 Can you tell me when you first
19 complained to the HR Department at the Post
20 about race discrimination?

21 A That would have been in December of
22 2009.

23 Q And was December 2009 the first
24 time you complained to the HR Department
25 about race discrimination at the Post?

1 IKIMULISA LIVINGSTON

2 A To the Human Resources Department,
3 yes.

4 Q And so it's true that in
5 December 2009 when you complained about race
6 discrimination, you didn't mention that you
7 thought the way Mr. Greenfield spoke to you
8 was discrimination or discriminatory; is
9 that correct?

10 A At that time, no.

11 Q Since December 2009, have you
12 spoken to anyone at the New York Post about
13 how you believe the way Mr. Greenfield
14 speaks to you is discriminatory?

15 A Have I've spoken to someone at the
16 New York Post about --

17 Q Human Resources Department.

18 A -- Human Resources Department about
19 the way Mr. Greenfield speaks to me?

20 Q Yes.

21 A Is that your question.

22 No.

23 Q When did you complain to Michelle
24 Gotthelf about race discrimination?

25 You mentioned that a few minutes

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1 IKIMULISA LIVINGSTON

2 ago.

3 A I complained to her about the
4 cartoon. And I complained to her about the
5 cartoon the day the cartoon ran in the
6 newspaper.

7 Q Was that an in-person conversation?

8 A No, it was not.

9 Q How did you communicate with
10 Ms. Gotthelf about the cartoon?

11 A I called and I got her voice-mail
12 and I left a message.

13 And some time passed, she called me
14 back and we spoke.

15 Q And Ms. Gotthelf apologized to you
16 about the cartoon; is that correct?

17 A I don't recall if she apologized to
18 me. I don't recall her apologizing.

19 Q What do you recall about the
20 conversation?

21 A I recall telling her that that
22 cartoon was very, very offensive to myself
23 and to the people of color, and she told me
24 that she agreed.

25 Q So Ms. Gotthelf told you that she

1 IKIMULISA LIVINGSTON

2 agreed that the cartoon was offensive; is
3 that correct?

4 MR. THOMPSON: Objection.

5 A It was my impression from what she
6 said to me that she agreed.

7 I believe she said, "I know."

8 Q And Ms. Gotthelf told you that she
9 thought the cartoon was disgusting; isn't
10 that right?

11 A I don't recall if she said
12 "disgusting."

13 Q Ms. Gotthelf told you that she was
14 sorry that you had to go through this; isn't
15 that right?

16 A I don't recall her saying that at
17 all.

18 Q Ms. Gotthelf told you that you
19 could take some time off if you wanted to;
20 isn't that right?

21 A No, she did not.

22 Q You don't recall her telling you
23 that you could take time off?

24 A I'm not saying I don't recall her
25 saying that. I'm saying she did not tell me

12 (Pages 42 to 45)

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1 IKIMULISA LIVINGSTON
 2 that.
 3 Q So your testimony is Ms. Gotthelf
 4 did not offer that you could take some time
 5 off if you wished in light of the cartoon?
 6 A Ms. Gotthelf did not tell me I
 7 could take some time off, no.
 8 Q Did you work that day?
 9 A Yes, I did.
 10 Q Do you recall if you worked a full
 11 day?
 12 A If I worked that day, it was a full
 13 day, yes.
 14 Q You don't recall coming to work
 15 late that day?
 16 A No, I don't believe so, no.
 17 Q You don't think so but it's
 18 possible that you came to work late that
 19 day?
 20 A Sorry. I didn't mean to cut you
 21 off.
 22 No, I did not go to work late that
 23 day.
 24 Q Did you complain to anyone in Human
 25 Resources about the cartoon?

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1 IKIMULISA LIVINGSTON
 2 that Jesse Angelo approved the cartoon?
 3 A I spoke to others who said they did
 4 speak to Jesse about the cartoon and that he
 5 saw it beforehand and didn't see anything
 6 wrong with it.
 7 Q Who did you speak with?
 8 A I spoke to Leonard Greene.
 9 Q So Leonard Greene told you that
 10 Mr. Angelo approved the cartoon in advance?
 11 A Leonard told me that he'd spoken to
 12 Jesse about the cartoon. Jesse said he saw
 13 the cartoon before it was published and that
 14 he didn't see anything wrong with it.
 15 Q Did you discuss the cartoon with
 16 any other employees?
 17 A Yes.
 18 Q By the way, when did you have this
 19 conversation with Leonard Greene?
 20 A Might have been that day.
 21 Q So you took what Leonard Greene
 22 told you as a fact?
 23 A I understood -- I don't think
 24 Leonard lied to me about that, so, yes, I
 25 believe Leonard, what he said.

1 IKIMULISA LIVINGSTON
 2 A No.
 3 Q Did you complain to any other
 4 editor at the New York Post about the
 5 cartoon?
 6 A No.
 7 Q Do you know if Ms. Gotthelf was
 8 aware of the cartoon prior to publication?
 9 A I don't know.
 10 Q You didn't know then or you don't
 11 know now?
 12 A I didn't know then and I don't know
 13 now.
 14 Q So sitting here today, you think
 15 Ms. Gotthelf was possibly responsible for
 16 the selection of the cartoon?
 17 A Was responsible for the selection
 18 of the cartoon?
 19 Q That's the question, yes.
 20 A I don't know if she was responsible
 21 for the selection of the cartoon.
 22 Q You've never spoken with Jesse
 23 Angelo about the cartoon; is that right?
 24 A No, I have not.
 25 Q What's the basis for your belief

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1 IKIMULISA LIVINGSTON
 2 Q So in your court Complaint, based
 3 on what Leonard told you, you felt
 4 comfortable stating "In fact, Jesse Angelo
 5 admitted to others that he had reviewed and
 6 approved the publication of the cartoon
 7 before it appeared in the newspaper"; is
 8 that right?
 9 A I'm sorry. Could you read that
 10 again?
 11 Q In your court Complaint, based on
 12 what Leonard Greene told you, you felt
 13 comfortable stating "In fact, Jesse Angelo
 14 admitted to others that he had reviewed and
 15 approved the publication of the cartoon
 16 before it appeared in the newspaper"?
 17 A Yes.
 18 Q Yeah. Who were the "others"?
 19 A The others in terms of that spoke
 20 to Jesse about it?
 21 Q Well, I don't know. In your
 22 Complaint in Paragraph 69 it says "In fact,
 23 Jesse Angelo, the white managing editor at
 24 the Post, admitted to others."
 25 So I'm asking you who are the

13 (Pages 46 to 49)

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<p>1 IKIMULISA LIVINGSTON</p> <p>2 "others" referenced in that paragraph?</p> <p>3 A I don't recall.</p> <p>4 Q Is it possible that it was just</p> <p>5 Leonard Greene?</p> <p>6 A Is it possible? I think anything</p> <p>7 is possible. But if I said "others," then I</p> <p>8 think there were probably others that also</p> <p>9 heard him, so ...</p> <p>10 Q But sitting here today, you can't</p> <p>11 identify anyone other than Leonard Greene</p> <p>12 who heard that Jesse Angelo had reviewed and</p> <p>13 approved the publication of the cartoon</p> <p>14 before it appeared in the newspaper; is that</p> <p>15 correct?</p> <p>16 A Right now, I can't think of anyone</p> <p>17 else.</p> <p>18 Q Is there anything that you haven't</p> <p>19 told me that supports your belief that Dan</p> <p>20 Greenfield discriminated against you based</p> <p>21 on your race at the New York Post?</p> <p>22 A Well, I mentioned that he had</p> <p>23 something to do with me being demoted from</p> <p>24 my beat.</p> <p>25 Q Wait. I'm sorry. When you say</p>	<p>1 IKIMULISA LIVINGSTON</p> <p>2 "demoted from your beat."</p> <p>3 Are you referring to the Queens</p> <p>4 Courthouse position?</p> <p>5 A That's correct.</p> <p>6 Q When were you demoted from the</p> <p>7 Queens Courthouse position?</p> <p>8 A In December 2008.</p> <p>9 Q Do you know what Dan Greenfield's</p> <p>10 position was in December 2008?</p> <p>11 A I don't exactly know what the</p> <p>12 titles are for the editors or for Dan</p> <p>13 Greenfield specifically.</p> <p>14 Q Do you know what Dan Greenfield's</p> <p>15 position is today at the New York Post?</p> <p>16 A I don't know exactly what his title</p> <p>17 is.</p> <p>18 Q Do you know that Dan Greenfield</p> <p>19 wasn't the deputy editor back in</p> <p>20 December 2008?</p> <p>21 A I do not know if he was or he was</p> <p>22 not.</p> <p>23 Q But you just said that he played a</p> <p>24 role in your demotion, right?</p> <p>25 A Yes.</p>
Page 52	Page 53
<p>1 IKIMULISA LIVINGSTON</p> <p>2 Q So if he wasn't in his current</p> <p>3 position, how do you know that he had any</p> <p>4 authority to demote you back in 2008?</p> <p>5 A I think regardless of his title, I</p> <p>6 think he played a role in my demotion.</p> <p>7 Q Tell me the factual basis for that</p> <p>8 belief.</p> <p>9 A Dan Greenfield was an editor at the</p> <p>10 Post. I believe he was a confidante of</p> <p>11 Michelle Gottself. And I believe he played</p> <p>12 a role in my demotion.</p> <p>13 Q Confidante.</p> <p>14 Why do you believe he was</p> <p>15 confidante of Michelle Gottself back in</p> <p>16 December 2008?</p> <p>17 A She was the Metro editor and he was</p> <p>18 an editor.</p> <p>19 Q So you do remember the titles of</p> <p>20 some people at the New York Post?</p> <p>21 A I'm not specific on exactly what</p> <p>22 all the titles are for all of the editors.</p> <p>23 Q Okay.</p> <p>24 Tell me, how long did you hold the</p> <p>25 Queens Courthouse position?</p>	<p>1 IKIMULISA LIVINGSTON</p> <p>2 A I was there from winter of 2006</p> <p>3 until I was removed, wrongly, in 2008 of</p> <p>4 December.</p> <p>5 Q Okay. Winter of 2006 through</p> <p>6 December 2008; is that right?</p> <p>7 A That is correct.</p> <p>8 Q So when you were the Queens</p> <p>9 Courthouse reporter, where did you report to</p> <p>10 work every day?</p> <p>11 A I'm sorry?</p> <p>12 Q I didn't mean to cut you off.</p> <p>13 A When I was the Queens Courthouse</p> <p>14 reporter, I went to work at the Queens</p> <p>15 Courthouse.</p> <p>16 Q What time did you report to the</p> <p>17 Queens Courthouse, generally?</p> <p>18 A It varied.</p> <p>19 Q Was it sometime between 9 and</p> <p>20 10 a.m.?</p> <p>21 A It varied.</p> <p>22 Q What did it vary on? When did it</p> <p>23 change?</p> <p>24 A It depended on the cases I was</p> <p>25 working on.</p>

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1 IKIMULISA LIVINGSTON
 2 A When I was asked by someone with
 3 HR, Lisa, to no longer do that.
 4 Q Is that Lisa Sweberg you are
 5 referring to?
 6 A I believe that's her name.
 7 Q When you tape-recorded
 8 conversations, did you use an induction
 9 coil?
 10 A Since I don't really know what an
 11 induction coil is, no.
 12 Q You said that you used a digital
 13 recorder.
 14 Is that something that you hold up
 15 to your phone?
 16 A I used a digital recorder that's a
 17 handheld digital recorder.
 18 Q So do you hold it up to your
 19 telephone when you record?
 20 A When I was recording those
 21 conversations, I would either -- I don't
 22 know if I would hold it to my phone, but I
 23 would have to next to -- near my phone.
 24 Q Did you only record phone
 25 conversations?

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1 IKIMULISA LIVINGSTON
 2 record of what he was doing to me.
 3 Q Were you contemplating a lawsuit?
 4 A No.
 5 Q You just said that you knew that
 6 Zach Haberman was discriminating against
 7 you.
 8 What's the basis for your belief
 9 that Zach Haberman was discriminating
 10 against you?
 11 A Because he was yelling and
 12 screaming and cursing at me, to me, and I
 13 don't think he treated -- certainly not
 14 white male reporters that way that he
 15 interacted with.
 16 He treated me that way.
 17 Q But Zach Haberman did yell at other
 18 reporters; isn't that right?
 19 A I don't know if he yelled.
 20 I know that Denise Buffa had very
 21 difficult times with him as well.
 22 Q Is Denise Buffa African-American?
 23 A No. Denise Buffa is a white woman.
 24 Q So you know for sure that Zach
 25 Haberman yelled at white women; is that

1 IKIMULISA LIVINGSTON
 2 A Did I only record telephone
 3 conversations?
 4 Q Yeah. Did you record any in-person
 5 meetings with Post employees?
 6 A Oh, okay. No.
 7 Q Did you edit any of the tapes that
 8 you produced?
 9 A No, I did not. I don't know how to
 10 edit them.
 11 Q And let me ask you: Why did you
 12 tape-record conversations with your
 13 supervisors? Did somebody tell you to make
 14 these recordings?
 15 A No.
 16 I knew that Zach Haberman was
 17 discriminating against me.
 18 I knew that the yelling, the
 19 screaming, the tone, the cursing, I knew all
 20 of these things were wrong and I didn't know
 21 what to do about what was going on with him.
 22 So at one point I thought -- I just
 23 thought I needed proof and at one point I
 24 thought, well, maybe I'll tell Michelle, but
 25 I just did this so that I could have a

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1 IKIMULISA LIVINGSTON
 2 right? At least one white woman?
 3 A I know he yelled at me and he
 4 yelled at Denise.
 5 I don't know that he yelled. I
 6 know that he spoke to her in an abusive way
 7 as well.
 8 Q Do you believe that Mr. Haberman
 9 was more critical of your work than he was
 10 of other reporters?
 11 A I don't know if he was more
 12 critical of my work. I just know that he
 13 was abusive and treated me in a
 14 discriminatory way.
 15 Q And Mr. Haberman's employment with
 16 the New York Post was terminated, correct?
 17 A As far as I know, he lost his job.
 18 MS. LOVINGER: Let's go off the
 19 record for one minute.
 20 THE VIDEOGRAPHER: The time is
 21 12:28 p.m. We're now off the record.
 22 (A brief recess was
 23 taken.)
 24 THE VIDEOGRAPHER: The time is
 25 12:34 p.m. We're now back on the

29 (Pages 110 to 113)

<p style="text-align: right;">Page 114</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 record.</p> <p>3 BY MS. LOVINGER:</p> <p>4 Q Ms. Livingston, when were you</p> <p>5 removed from the Queens Courthouse position?</p> <p>6 A December 2008.</p> <p>7 Q Who told you you were being</p> <p>8 removed?</p> <p>9 A Michelle Gotthelf.</p> <p>10 Q Did she call you?</p> <p>11 A Did she call me to tell me I was</p> <p>12 being removed? Is that your question?</p> <p>13 Q Yeah. How did she convey the</p> <p>14 message?</p> <p>15 A She called me, told me to come in</p> <p>16 to the office the next day, and at that</p> <p>17 time, the next day, she told me that they</p> <p>18 were making a change in the Queens</p> <p>19 courtroom, in the Queens Courthouse.</p> <p>20 Q Do you remember how long before you</p> <p>21 stopped working in the Queens Courthouse she</p> <p>22 had this conversation with you?</p> <p>23 A How long -- are you saying that I</p> <p>24 was not in the Queens Courthouse when she</p> <p>25 removed me?</p>	<p style="text-align: right;">Page 115</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q No. I'm saying that.</p> <p>3 I'm saying did you continue to work</p> <p>4 in the Queens Courthouse after Michelle</p> <p>5 Gotthelf told you that would no longer be</p> <p>6 your personal assignment?</p> <p>7 A When she told me I was being</p> <p>8 demoted; that they were making a change, she</p> <p>9 never told me when, so I thought I was out</p> <p>10 the next day.</p> <p>11 So the next day I called in to the</p> <p>12 office, which is what you do on your general</p> <p>13 assignment, and I spoke to Greenfield,</p> <p>14 telling them him that I'm available. I'm</p> <p>15 not sure exactly what my words were. And he</p> <p>16 told me, no, that's not going to start until</p> <p>17 next week.</p> <p>18 Q So you stayed in the Queens</p> <p>19 Courthouse for one additional week?</p> <p>20 A I don't think it was a full week.</p> <p>21 It was three, maybe four days.</p> <p>22 Q Billy Gorta is the reporter who</p> <p>23 replaced in you the Queens Courthouse; is</p> <p>24 that right?</p> <p>25 A Yes. Billy Gorta, a white male,</p>
<p style="text-align: right;">Page 116</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 replaced me in my Queens Courthouse beat.</p> <p>3 Q When did you find out that Billy</p> <p>4 Gorta would be assigned to the Queens</p> <p>5 Courthouse position?</p> <p>6 A I don't remember when I found out.</p> <p>7 Q You allege in your Complaint that</p> <p>8 Mr. Gorta had been demoted due to</p> <p>9 performance issues; is that right?</p> <p>10 A Yes.</p> <p>11 Q What's the basis for this belief?</p> <p>12 A I heard that he was disciplined and</p> <p>13 he was removed from his position as an</p> <p>14 editor.</p> <p>15 Q So Mr. Gorta was an editor before</p> <p>16 he was assigned to the Queens Courthouse</p> <p>17 position; is that correct?</p> <p>18 A Yes.</p> <p>19 Q Who told you that Mr. Gorta had</p> <p>20 been disciplined?</p> <p>21 A I don't recall.</p> <p>22 Q Do you have personal knowledge of</p> <p>23 Mr. Gorta's job performance at the New York</p> <p>24 Post?</p> <p>25 A No. I worked with him on occasion,</p>	<p style="text-align: right;">Page 117</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 but other than that, I don't know -- I don't</p> <p>3 have personal knowledge of all of his work</p> <p>4 at the New York Post, no.</p> <p>5 Q Is it your belief that Mr. Gorta</p> <p>6 was not qualified to be the Queens</p> <p>7 Courthouse reporter?</p> <p>8 A Is it my belief he's not qualified?</p> <p>9 I don't think at any time I said he wasn't</p> <p>10 qualified. I just said I was removed from</p> <p>11 my beat discriminatorily and replaced by a</p> <p>12 white male.</p> <p>13 Q Could it be that Mr. Gorta is more</p> <p>14 qualified than you are to hold the Queens</p> <p>15 Courthouse reporter position?</p> <p>16 A I don't know if he's more qualified</p> <p>17 or less qualified. I know that I did a good</p> <p>18 job in my position at the Queens County</p> <p>19 Courthouse.</p> <p>20 And I was summarily removed, told</p> <p>21 me they were just making a change and then I</p> <p>22 heard Billy Gorta, who was demoted from his</p> <p>23 position as an editor, was being placed in</p> <p>24 the beat that I had had.</p> <p>25 Q But it's possible that Mr. Gorta is</p>

<p style="text-align: right;">Page 118</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 more qualified for the Queens Courthouse</p> <p>3 position; is that correct?</p> <p>4 MR. THOMPSON: Objection.</p> <p>5 A I don't know if he's more qualified</p> <p>6 or less qualified.</p> <p>7 Q You never had an employment</p> <p>8 agreement at the New York Post, did you? An</p> <p>9 employment contract with the New York Post?</p> <p>10 A I was hired by the Post. I don't</p> <p>11 know of any contract.</p> <p>12 Q Well, did you ever have an</p> <p>13 employment contract for a fixed period of</p> <p>14 time to work for the New York Post?</p> <p>15 A No, I did not.</p> <p>16 Q Did you ever have an employment</p> <p>17 contract in connection with a Queens</p> <p>18 Courthouse reporter position?</p> <p>19 A No, no one ever gave me a contract</p> <p>20 for that position.</p> <p>21 Q Were you ever promised that you</p> <p>22 would be at the Queens Courthouse reporter</p> <p>23 position for any specific period of time?</p> <p>24 A No.</p> <p>25 Q Do you know that Mr. Gorta was an</p>	<p style="text-align: right;">Page 119</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 adjunct professor at Columbia School of</p> <p>3 Journalism?</p> <p>4 A I know he taught a class, yes.</p> <p>5 Q Do you know that Mr. Gorta never</p> <p>6 required a rewrite in the Queens Courthouse</p> <p>7 position?</p> <p>8 A I don't know that to be true.</p> <p>9 Q Do you know that Mr. Gorta has a</p> <p>10 master's in journalism?</p> <p>11 A I don't know whether he has a</p> <p>12 master's or not.</p> <p>13 Q To the best of your knowledge, who</p> <p>14 was responsible for removing you from the</p> <p>15 Queens Courthouse position?</p> <p>16 A Michelle Gotthelf, Jesse Angelo,</p> <p>17 Dan Greenfield, Col Allan.</p> <p>18 Q And what's the basis for your</p> <p>19 understanding of how the decision was made</p> <p>20 to remove you from the courthouse?</p> <p>21 A What's the basis?</p> <p>22 Q Uh-huh.</p> <p>23 Did someone tell you how the</p> <p>24 decision was made to remove you from the</p> <p>25 Queens Courthouse position?</p>
<p style="text-align: right;">Page 120</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A No, no one told me.</p> <p>3 Q But you know that Michelle Gotthelf</p> <p>4 and Jesse Angelo were involved in that</p> <p>5 decision, correct?</p> <p>6 A Yes. I know the two of them were</p> <p>7 involved in that decision, and I know that</p> <p>8 one day I heard about Billy Gorta being</p> <p>9 demoted from his position as an editor after</p> <p>10 something about Plaxico Burress coverage.</p> <p>11 And then the next day, I believe it</p> <p>12 was I was, demoted from my beat.</p> <p>13 Q Who told you who made the decision</p> <p>14 to remove you from the Queens Courthouse</p> <p>15 position?</p> <p>16 A No one specifically told me who</p> <p>17 made the decision.</p> <p>18 Michelle told me that they were</p> <p>19 making a change. So, to me, "they" are the</p> <p>20 editors of the New York Post.</p> <p>21 Q So to be clear, Ms. Gotthelf and</p> <p>22 Mr. Angelo, the people who assigned you to</p> <p>23 the Queens Courthouse position, were also</p> <p>24 responsible for removing you; is that right?</p> <p>25 A And as I stated earlier, I think</p>	<p style="text-align: right;">Page 121</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Dan Greenfield also had something to do with</p> <p>3 that. He was part of the decision-making on</p> <p>4 that.</p> <p>5 Q Was your salary decreased --</p> <p>6 A I'm sorry. Could I just state, I</p> <p>7 think Zach Haberman would also have</p> <p>8 something to do with me being removed from</p> <p>9 the Queens County Courthouse, since he was</p> <p>10 my immediate supervisor.</p> <p>11 I just wanted to add that.</p> <p>12 Q Okay.</p> <p>13 Was your salary decreased when you</p> <p>14 were removed from the Queens Courthouse</p> <p>15 position?</p> <p>16 A My set salary? No, it did not</p> <p>17 change. However, my overtime did change. I</p> <p>18 made a lot of overtime covering the Sean</p> <p>19 Bell trial. And high-profile trials require</p> <p>20 more time and attention and, therefore, I</p> <p>21 did make lots of money.</p> <p>22 Q But the Sean Bell trial was over</p> <p>23 before you were removed from the Queens</p> <p>24 Courthouse position; is that right?</p> <p>25 A That's correct.</p>

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1 IKIMULISA LIVINGSTON
2 reporter?

3 A At no time did anyone make me aware
4 that I can request an additional shift to
5 work an extra day to make more money.

6 Q Well, maybe no one affirmatively
7 told you, but is it your testimony that you
8 were unaware that you could request
9 additional shifts?

10 It's a yes or no question,
11 Ms. Livingston.

12 A I didn't know that other general
13 assignment reporters were doing that. I
14 think I was aware that sometimes rewrite
15 people would work a shift in the office an
16 extra day or something like that, but at no
17 time was I aware that that was an option for
18 a general assignment reporter.

19 Q So is it your testimony that you
20 are learning about the opportunity for
21 additional shifts for the first time right
22 now at this deposition?

23 MR. THOMPSON: Objection.

24 Q Is that your testimony?

25 A I'm saying that at no time did

1 IKIMULISA LIVINGSTON

2 anyone tell me I could work an additional
3 day or a shift as a general assignment
4 reporter to make extra money, no.

5 Q In your last performance
6 evaluation, your 2011 APA, did your
7 supervisors not tell you that you can work
8 additional shifts and additional hours?

9 A Is that something that's in the
10 APA?

11 Q I'm asking your recollection.
12 Did they not tell you that?

13 A Offhand, I do not recall them
14 telling me that, no.

15 Q Did you ever ask anyone if you
16 could work additional shifts?

17 A No, I didn't ask anyone if I could
18 work additional shifts.

19 Q Austin Fenner worked a lot of
20 overtime.

21 Are you claiming that you were
22 unaware of that?

23 MR. THOMPSON: Objection.

24 A I don't know what hours Austin
25 worked.

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1 IKIMULISA LIVINGSTON

2 Q Are you unaware of the fact that
3 Austin Fenner worked a lot of overtime at
4 the New York Post?

5 A I know that Austin was essentially
6 sent on the road, traveled a lot for the job
7 which would incur more overtime.

8 So if that answers that question,
9 then, yes.

10 Q Ms. Livingston, this morning you
11 described a long list of things that
12 Michelle Gotthelf and Dan Greenfield did
13 that you believe were acts of
14 discrimination, and nowhere in -- not once
15 in your testimony or in your sworn EEOC
16 charge or in your federal lawsuit do you
17 allege that you ever heard Michelle
18 Gotthelf, Dan Greenfield or any other editor
19 at the Post say something offensive about
20 your race, for example, a racial epithet;
21 isn't that true?

22 MR. THOMPSON: Objection.

23 A There was not an occasion when
24 Michelle used a racial slur with me,
25 although I have to say the fact that they

1 IKIMULISA LIVINGSTON

2 would always consider black stories and
3 Latino stories or stories about black and
4 Latinos as "low rent" or "ghetto" or however
5 you want -- that right there is offensive in
6 and of itself.

7 But no, she never used the N-word
8 with me or -- and Greenfield never said
9 those things. However, I do know
10 that Frankie Edozien was called a nigger by
11 Steve Dunleavy, and Dunleavy would write his
12 columns and refer to Hispanic people as
13 "Spics."

14 And there was also an occasion
15 when -- there was a smoking room in the Post
16 and there was one occasion when Andrea
17 Esposito, she was in there with some people
18 and she was talking about the Giants -- or
19 just talking about football and she referred
20 to Lawrence Taylor as "that big nigga."

21 Q Who is Andrea Esposito?

22 A She works at the Post.

23 Q Is she an editor?

24 A No, she is not an editor.

25 Q Going back to my question for a

34 (Pages 130 to 133)

<p style="text-align: right;">Page 134</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 minute.</p> <p>3 Have you ever heard any editor or</p> <p>4 executive at the New York Post say any</p> <p>5 racist comments?</p> <p>6 MR. THOMPSON: Objection.</p> <p>7 A I stated that I didn't hear</p> <p>8 Michelle to me personally using racial</p> <p>9 epithets or Greenfield, except for the fact</p> <p>10 that they constantly call stories about</p> <p>11 black people or Latino people "low rent"</p> <p>12 which is tantamount to saying they're</p> <p>13 ghetto. And that itself is offensive.</p> <p>14 Q So you haven't heard Michelle</p> <p>15 Gotthelf or Dan Greenfield make any comments</p> <p>16 or say something offensive about race --</p> <p>17 MR. THOMPSON: Objection.</p> <p>18 Q Have you heard any other editor or</p> <p>19 executive at the New York Post ever say</p> <p>20 something offensive about your race?</p> <p>21 MR. THOMPSON: Objection.</p> <p>22 A The fact that Col Allan and Jesse</p> <p>23 Angelo would approve a racist cartoon</p> <p>24 depicting President Obama, a black man, as a</p> <p>25 chimpanzee, that is offensive.</p>	<p style="text-align: right;">Page 135</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q Anything else?</p> <p>3 A I think the fact they're calling</p> <p>4 black people monkeys is --</p> <p>5 Q Have you ever --</p> <p>6 MR. THOMPSON: Wait, wait. She</p> <p>7 is not finished, Ms. Lovinger.</p> <p>8 Please let her finish.</p> <p>9 A I think that's extremely offensive.</p> <p>10 In addition to the fact that they didn't</p> <p>11 apologize. They wouldn't apologize to me.</p> <p>12 They didn't apologize to Leonard. They</p> <p>13 didn't apologize to the other few black</p> <p>14 reporters and black people that worked</p> <p>15 there.</p> <p>16 And on top of that, for Nicole Alan</p> <p>17 and for the executives to say things like</p> <p>18 oh, those people outside protesting, they're</p> <p>19 uneducated anyway. That is all extremely</p> <p>20 offensive.</p> <p>21 Q There is still a pending question</p> <p>22 that remains unanswered and I asked you the</p> <p>23 question and you --</p> <p>24 MR. THOMPSON: Objection.</p> <p>25 Q -- and you mentioned this low rent</p>
<p style="text-align: right;">Page 136</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 reference which we can address and we will</p> <p>3 pursue it.</p> <p>4 But other than the fact that</p> <p>5 Ms. Gotthelf or Mr. Greenfield you claim</p> <p>6 referred to certain stories as low rent,</p> <p>7 have you ever heard Michelle Gotthelf, Dan</p> <p>8 Greenfield or any other editor or executive</p> <p>9 at the New York Post say anything that's</p> <p>10 offensive about your race?</p> <p>11 A I thought I clearly said I did not</p> <p>12 hear Michelle or Dan Greenfield say anything</p> <p>13 beyond the low rent remarks about story</p> <p>14 pitches about blacks and Latinos.</p> <p>15 As for others, I just mentioned</p> <p>16 Steve Dunleavy. He's a columnist. Other</p> <p>17 than that, I can't say.</p> <p>18 Q You can't say you've ever heard</p> <p>19 anyone else make a comment about your race?</p> <p>20 MR. THOMPSON: Objection.</p> <p>21 A About me as a black woman?</p> <p>22 Q Yes.</p> <p>23 A I thought I answered that. I said</p> <p>24 I can't say.</p> <p>25 Q I'm just rereading your testimony.</p>	<p style="text-align: right;">Page 137</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 And I understand that you just</p> <p>3 testified that you never heard Michelle</p> <p>4 Gotthelf or Dan Greenfield make any</p> <p>5 offensive comment about your race, but my</p> <p>6 question is --</p> <p>7 MR. THOMPSON: Objection.</p> <p>8 Objection.</p> <p>9 Q -- was about other editors and</p> <p>10 executives at the Post.</p> <p>11 MR. THOMPSON: Mistakes the</p> <p>12 testimony.</p> <p>13 MS. LOVINGER: The testimony is</p> <p>14 pretty clear. You can look back in</p> <p>15 the record.</p> <p>16 Q Ms. Livingston, have you ever heard</p> <p>17 any editor or executive at the New York Post</p> <p>18 make any offensive comment about your race?</p> <p>19 MR. THOMPSON: Objection.</p> <p>20 A I thought I was clear. I did not</p> <p>21 hear Michelle say the N-word.</p> <p>22 Q No, you're not hearing the</p> <p>23 question.</p> <p>24 We're going beyond Michelle</p> <p>25 Gotthelf and Dan Greenfield.</p>

<p style="text-align: right;">Page 138</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Have you heard -- and you were</p> <p>3 clear on that answer. You are right.</p> <p>4 But have you heard any other editor</p> <p>5 or executive at the New York Post make any</p> <p>6 offensive comment about your race?</p> <p>7 MR. THOMPSON: Objection.</p> <p>8 A When you say "executive," who do</p> <p>9 you mean?</p> <p>10 Q Any executive.</p> <p>11 Have you -- well, you tell me.</p> <p>12 I mean, do you not know what an</p> <p>13 executive is?</p> <p>14 A Do you mean editors?</p> <p>15 Q It could be someone other than an</p> <p>16 editor. Anyone -- have you heard -- have</p> <p>17 you heard any editor or executive at the New</p> <p>18 York Post or News Corp. make any offensive</p> <p>19 comment about your race?</p> <p>20 MR. THOMPSON: Objection.</p> <p>21 Asked and answered.</p> <p>22 MS. LOVINGER: It hasn't been</p> <p>23 answered.</p> <p>24 MR. THOMPSON: Asked and</p> <p>25 answered. Repeatedly.</p>	<p style="text-align: right;">Page 139</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 MS. LOVINGER: Repeatedly asked</p> <p>3 but not answered yet.</p> <p>4 MR. THOMPSON: Asked and</p> <p>5 answered. Objection.</p> <p>6 A I said I can't say.</p> <p>7 Q Well, that's really a yes or no</p> <p>8 question.</p> <p>9 When you say you can't say --</p> <p>10 A I can't say that I've heard any</p> <p>11 other editors or executives for the New York</p> <p>12 Post or News Corp. use a racial epithet in</p> <p>13 my presence.</p> <p>14 MS. LOVINGER: Okay. It's 1:00</p> <p>15 so we'll go off the record for lunch.</p> <p>16 MR. THOMPSON: Okay.</p> <p>17 THE VIDEOGRAPHER: That is the</p> <p>18 end of Tape Number 2. The time is</p> <p>19 1:02 p.m. We're off the record.</p> <p>20 (A luncheon recess was</p> <p>21 taken at 1:02 p.m. to 2:10 p.m.)</p> <p>22 A F T E R N O O N S E S S I O N</p> <p>23 IKIMULISA LIVINGSTON,</p> <p>24 resumed, having been previously</p> <p>25 duly sworn, was examined</p>
<p style="text-align: right;">Page 140</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 and testified further as follows:</p> <p>3 CONTINUED EXAMINATION BY MS. LOVINGER:</p> <p>4 THE VIDEOGRAPHER: This is the</p> <p>5 start of Tape Number 3. The time is</p> <p>6 now 2:10 p.m. We're now back on the</p> <p>7 record.</p> <p>8 BY MS. LOVINGER:</p> <p>9 Q Ms. Livingston, this morning you</p> <p>10 testified that you complained once to Human</p> <p>11 Resources and that was back in December of</p> <p>12 2009; is that correct?</p> <p>13 A Yes.</p> <p>14 Q And specifically on December 3,</p> <p>15 2009, you sent an e-mail to Amy Scialdone of</p> <p>16 Human Resources which stated the following:</p> <p>17 "As a reporter at the New York Post, I've</p> <p>18 been discriminated against due to my race</p> <p>19 and my gender. For example, I was removed</p> <p>20 from my beat as the Queens Court's reporter</p> <p>21 because I'm a black woman. I was told I</p> <p>22 would have a desk at the office and there</p> <p>23 would be opportunities to write. That has</p> <p>24 not happened."</p> <p>25 Was that the e-mail you sent to Amy</p>	<p style="text-align: right;">Page 141</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Scialdone?</p> <p>3 A Yes, I believe that's correct.</p> <p>4 Q After you sent that e-mail, Amy</p> <p>5 Scialdone responded the following day</p> <p>6 suggesting that you set up a meeting to</p> <p>7 discuss your concerns.</p> <p>8 Do you remember that?</p> <p>9 A Yes, I remember that.</p> <p>10 Q And do you recall meeting with HR</p> <p>11 to discuss your e-mail complaint?</p> <p>12 A Yes, I do.</p> <p>13 Q On December 9, 2009, you met with</p> <p>14 Jennifer Jayne, Kristin Kelly, who were also</p> <p>15 in Human Resources at the New York Post</p> <p>16 during this time.</p> <p>17 Do you remember that meeting?</p> <p>18 A I thought -- I believe Jennifer</p> <p>19 Jane told me her title was with News Corp.</p> <p>20 Q That her title was with News Corp.?</p> <p>21 A With News Corp. She was like HR</p> <p>22 for News Corp.</p> <p>23 Q Do you know who Kristin Kelly was?</p> <p>24 A She was the young woman who typed</p> <p>25 up the notes.</p>

<p style="text-align: right;">Page 190</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q Did you have a desk in January</p> <p>3 2009?</p> <p>4 A No, I did not.</p> <p>5 Q Did you have a desk in the early</p> <p>6 part of February 2009?</p> <p>7 A No, I didn't.</p> <p>8 Q But the reason why you didn't have</p> <p>9 a desk was because you complained to</p> <p>10 Michelle Gotthelf, who agreed with you, in</p> <p>11 mid February 2009; that's your testimony?</p> <p>12 A I'm saying, my testimony, I'm</p> <p>13 telling you that I was told I would have a</p> <p>14 desk in December of 2008.</p> <p>15 When Michelle demoted me, she said</p> <p>16 I would get a desk and I would get a phone</p> <p>17 thereby getting all the resources that my</p> <p>18 white counterparts would have. I would be</p> <p>19 in the office sometimes, I would not always</p> <p>20 be out in the street or in the field.</p> <p>21 So that didn't happen in December</p> <p>22 and didn't happen in January.</p> <p>23 I still thought at some point there</p> <p>24 would be a desk forthcoming, but after I</p> <p>25 complained about the cartoon being racist,</p>	<p style="text-align: right;">Page 191</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 none of that was forthcoming. I continue to</p> <p>3 be denied that. And I also received this</p> <p>4 letter of warning, this written warning as</p> <p>5 well as the evaluation that I believe is</p> <p>6 also discriminatory against me.</p> <p>7 Q Did Michelle Gotthelf tell you when</p> <p>8 you would get a desk in the newsroom?</p> <p>9 A No, she didn't.</p> <p>10 Q Tell me who are your white</p> <p>11 counterparts who have desks.</p> <p>12 I want to hear the names of</p> <p>13 everyone who is a general assignment</p> <p>14 reporter who has a desk at 1211.</p> <p>15 A I know that at times Lorena has</p> <p>16 been at the office working at a desk and</p> <p>17 having access to a telephone. Amber</p> <p>18 Sutherland had a desk. Rich Calder had a</p> <p>19 desk. Ed Robinson had a desk.</p> <p>20 Q When you say "had a desk," what</p> <p>21 time period are you talking about, because</p> <p>22 you once had a desk; isn't that right?</p> <p>23 A Well, yes. Once I did have a desk</p> <p>24 and that was taken away and given to a white</p> <p>25 woman.</p>
<p style="text-align: right;">Page 192</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 But Ed Robinson, I referred to him</p> <p>3 as having had a desk because he no longer</p> <p>4 works for the Post.</p> <p>5 Q So when you say "they're working at</p> <p>6 a desk," does that mean that they have a</p> <p>7 desk exclusively assigned to them? Is that</p> <p>8 your understanding?</p> <p>9 A I don't know if it was exclusively</p> <p>10 assigned to them.</p> <p>11 I just know that there were periods</p> <p>12 when I know that they were in the office</p> <p>13 working at a desk and I was denied a desk.</p> <p>14 And in fact, I was essentially banned from</p> <p>15 the newsroom because I was not allowed in</p> <p>16 the newsroom. And the one period of time</p> <p>17 when I did come into the newsroom,</p> <p>18 Greenfield saw me and asked me a hostile</p> <p>19 way, "What are you doing here?"</p> <p>20 Q Okay. Let's talk about the</p> <p>21 banned --</p> <p>22 But one question: isn't it the fact</p> <p>23 that many white general assignment reporters</p> <p>24 do not have desks or phones?</p> <p>25 A I don't know. I know that some do</p>	<p style="text-align: right;">Page 193</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 have desks and phones.</p> <p>3 And as a senior reporter who's been</p> <p>4 at the Post for nearly 15 years, who was</p> <p>5 promised a desk, who was told at the time of</p> <p>6 my demotion in December 2008 by Michelle</p> <p>7 Gotthelf, the Metropolitan editor of the New</p> <p>8 York Post, that I would have a desk and I</p> <p>9 would have telephone and I would sometimes</p> <p>10 be in the office writing stories and not</p> <p>11 always in the street, in the field, I took</p> <p>12 that to mean that I would receive a desk and</p> <p>13 that I would receive a telephone and that</p> <p>14 sometimes I would be in the office.</p> <p>15 Q Did Ms. Gotthelf ever tell you that</p> <p>16 you would have a desk that no one else could</p> <p>17 sit in but you?</p> <p>18 A She told me I would have a desk and</p> <p>19 she told me I would have a telephone.</p> <p>20 Q Tell me when you came to the office</p> <p>21 and were denied a seat.</p> <p>22 Let's review the dates that</p> <p>23 happened.</p> <p>24 MR. THOMPSON: Objection.</p> <p>25 A I can't give you an exact date of</p>

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1 IKIMULISA LIVINGSTON

2 when I went into the office, and I can't
3 say -- well, I can say that I do not have a
4 desk in the office and I do not have a
5 telephone.

6 Q You do not have a desk that's
7 exclusively assigned to you, but has there
8 ever been a time when you showed up at the
9 newsroom and you were denied a place to sit?

10 A I'm essentially not allowed in the
11 newsroom. And the very infrequent times
12 when I have been permitted to go into the
13 newsroom after having called in advance to
14 say that I'm done with my notes, can I come
15 into the newsroom and write the story, I was
16 provided with a space, a desk and a computer
17 to write the story that I was working on.

18 Q So you are allowed in the newsroom;
19 isn't that right?

20 A I had to call and basically be
21 permitted into the newsroom.

22 Q When you say you are essentially
23 not allowed in the newsroom, has any editor
24 ever told you that you were not allowed to
25 come into the newsroom?

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1 IKIMULISA LIVINGSTON

2 questions you just asked her.

3 Q The question is: Has any editor,
4 Ms. Livingston, ever told you that you were
5 not allowed to come into the newsroom?

6 A I stated that Michelle and Dan,
7 neither of them actually came out and told
8 me, "No, do not come into the newsroom."

9 Q Has any other editor ever told you
10 that you were not allowed to come into the
11 newsroom?

12 A I have not been directly told by
13 an editor not to come into the newsroom.

14 Q Are you aware of any New York Post
15 policy with respect to who gets a desk and a
16 telephone?

17 A No.

18 Q Michelle Gottself told you that she
19 tried to get you a desk but she had to look
20 into it; isn't that right?

21 A No.

22 Q Do you think you are entitled to a
23 desk because you've been working at the New
24 York Post for almost 15 years?

25 A It's not about entitlement.

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1 IKIMULISA LIVINGSTON

2 A Michelle did not tell me I was not
3 allowed to come into the newsroom; Dan
4 didn't tell me I wasn't allowed to come into
5 the newsroom. However, when I show up in
6 the newsroom and Dan looks at me and says in
7 a hostile way, "What are you doing here,"
8 that's both humiliating and demoralizing and
9 degrading. And as someone who worked at the
10 Post longer than Michelle and longer than
11 Dan Greenfield, it's incredulous.

12 Q So the answer to my pending
13 question is no?

14 The question is: When you say you
15 were essentially not allowed in the
16 newsroom, has any editor ever told you that
17 you were not allowed to come into the
18 newsroom?

19 MR. THOMPSON: Objection. What
20 question are you asking? You just
21 asked her two questions. Which one
22 do you want her to answer?

23 MS. LOVINGER: There's one
24 question.

25 MR. THOMPSON: No. There's two

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1 IKIMULISA LIVINGSTON

2 Michelle told me that I would have
3 a desk.

4 Q But you referenced a few minutes
5 ago that you've been working at the Post for
6 almost 15 years, so I'm asking if you think
7 you are entitled to have a desk exclusively
8 for your use and no one else's use because
9 you've been working at the Post for almost
10 15 years.

11 A I did not say that.

12 Q So is the answer no?

13 A I said that Michelle told me I
14 would have a desk and a phone and that I
15 would sometimes be in the newsroom, not
16 always out in the street or in the field
17 reporting. I would have opportunities to
18 write.

19 She told me this. I had no other
20 reason but -- no other -- why wouldn't I
21 believe her when she told me that.

22 Q Is it your testimony that you don't
23 have other opportunities to write as a
24 general assignment reporter?

25 A If the Post editors didn't on a

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1 IKIMULISA LIVINGSTON
2 very frequent -- if the Post editors didn't
3 frequently turn down or simply ignore a
4 story idea that I pitched, then I suppose
5 there would be an opportunity to write news
6 stories from my home.

7 Q Explain to me how having a desk
8 that's exclusively for your use would give
9 you more opportunities to write as a general
10 assignment reporter.

11 A Having a desk -- and I'm not saying
12 exclusively for me, but having a desk,
13 having the desk that I was promised, would
14 enable me to be in the office sometimes and
15 to have access to the library, to the
16 archives, the library personnel, to my
17 colleagues, to the wire services, to the
18 atmosphere of generating news and writing
19 news stories.

20 Those things would help in my
21 ability to pitch stories. I would be able
22 to pitch more story ideas.

23 Q Did you ever try to come in on the
24 weekend?

25 A Would I try to come in on the

1 IKIMULISA LIVINGSTON
2 weekend on my own time.

3 Q On your own time.

4 A And what would I be doing on the
5 weekends?

6 Q I'm asking you if you ever -- do
7 you ever come in to the newsroom on the
8 weekends?

9 MR. THOMPSON: Objection.

10 A Would this be my donating time to
11 the New York Post?

12 Q I'm asking the questions. It's yes
13 or no.

14 Do you ever come into the newsroom
15 on the weekends?

16 A I have occasionally come through
17 the newsroom on the weekends.

18 Q Do you ever come into the newsroom
19 in the evening hours?

20 A I have on occasion come into the
21 newsroom during evening hours.

22 Q When you work outside of your
23 normal 40 hours, do you put in for overtime?

24 A Yes, I do.

25 Q So when you say that you would be

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1 IKIMULISA LIVINGSTON
2 "donating time to the New York Post," what
3 do you mean by that?

4 You don't get paid if you were
5 working extra hours?

6 A You didn't ask me if I would be
7 working on weekends and on the evenings.

8 Q Isn't it true that the New York
9 Post librarian will get you any story you
10 ask for as an employee of the New York Post?

11 A I've called the librarian and I've
12 had them send me information on my
13 cellphone.

14 Sometimes I can open a pdf file on
15 my cellphone, sometimes I cannot.

16 Q You testified earlier you have a
17 laptop computer.

18 Why do you need to open up files
19 exclusively on your cellphone?

20 A My laptop computer is my laptop
21 computer. I don't necessarily take it with
22 me all the time.

23 Q Isn't it true that you can come in
24 and use the New York Post library whenever
25 you want?

1 IKIMULISA LIVINGSTON

2 A I can use the library on my own
3 time? Is that what you are asking me, if I
4 can use the library on my own time?

5 Q Can you come in and use the New
6 York Post library when you need resources
7 that the library can provide?

8 A So this would be me coming in to
9 the office on my own time to access -- to
10 just sit at a desk and ask someone for a
11 logon for the computer and then access the
12 archives, all on unpaid time?

13 Q I'm not sure what you mean by
14 "unpaid time." Most people have a job, they
15 want to get it done and they get it done.

16 I don't know what you mean your own
17 time versus -- I'm not sure what other time
18 you are referring.

19 But the question is: Isn't it true
20 that you are free to come use the library at
21 the New York Post whenever you want?

22 A When I'm on the clock for the New
23 York Post, no, I'm not free to come in to
24 the newsroom and go to the library and not
25 access the library.

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1 IKIMULISA LIVINGSTON
 2 before the break that when you came into the
 3 newsroom on one occasion Dan Greenfield
 4 asked you what you were doing there.
 5 Can you tell me when that took
 6 place?
 7 A I don't know the date that that
 8 took place.
 9 Q Do you know what year?
 10 A I don't recall which year exactly.
 11 It wasn't this last year.
 12 Q Was it in 2010?
 13 A I believe it was before I filed the
 14 lawsuit.
 15 Q Tell me what Dan Greenfield said to
 16 you.
 17 MR. THOMPSON: Objection.
 18 A I think I said a number of times
 19 what he said to me.
 20 Q Well, you testified earlier that
 21 Ms. Gotthelf confronted you and asked you
 22 what you were doing in the newsroom.
 23 Do you remember what time of day
 24 this conversation took place?
 25 A It would have been in the

1 IKIMULISA LIVINGSTON
 2 afternoon, I believe.
 3 Q Do you remember if you had just
 4 finished an assignment?
 5 A I had had an assignment somewhere
 6 in the area.
 7 Q Do you know if it was the early
 8 afternoon?
 9 A I don't know if it was early
 10 afternoon or late afternoon.
 11 Q Could it have been late in the day?
 12 A I don't know.
 13 Q Do you recall why you were coming
 14 in to the newsroom on that particular day?
 15 A I think I was just stopping in to
 16 pick up my mail, since if I do have any mail
 17 no one actually sends it to me, and pick up
 18 notepads and supplies. And those things
 19 aren't sent to me either.
 20 Q Had you finished your assignment
 21 when you came into the newsroom?
 22 A I think I stated that I had had an
 23 assignment in the area, so yes, if I was in
 24 the newsroom, it would have been after I had
 25 finished whatever reporting I needed to do.

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1 IKIMULISA LIVINGSTON
 2 Q I know you had testified you had
 3 an assignment somewhere in the area, but it
 4 wasn't clear if it was before -- if you had
 5 come before it was complete.
 6 A It would have been afterwards, yes.
 7 Q Did you tell Dan Greenfield that
 8 you had already finished your assignment?
 9 A I told him I was just picking up
 10 supplies.
 11 Q And then what did he say?
 12 A I don't remember -- I don't
 13 remember if he said anything at all.
 14 Q So basically he asked what you were
 15 doing in the newsroom and you said you were
 16 picking up supplies. That was the extent of
 17 the conversation?
 18 A From what I remember, yes.
 19 Q Was that the only time Dan
 20 Greenfield confronted you when you were in
 21 the newsroom, when you came into the
 22 newsroom?
 23 A That was the only time I recall
 24 where he -- yes, where he asked me in a
 25 hostile way, "What are you doing here?"

1 IKIMULISA LIVINGSTON
 2 Yeah, that was the only time.
 3 But, mind you, I haven't been in
 4 the newsroom that often.
 5 Q When you say you haven't been in
 6 the newsroom that often, do you mean since
 7 you returned to being a general assignment
 8 reporter?
 9 A That means since I had been demoted
 10 from my Queens Courthouse beat, yes.
 11 Q And is that the same time when you
 12 became a general assignment reporter?
 13 A That was when I was reassigned to
 14 being a GA.
 15 Q And that was back in December 2008?
 16 MR. THOMPSON: Objection.
 17 A Yes.
 18 Q So it's your testimony that you
 19 haven't come into the newsroom very often
 20 since December 2008; is that right?
 21 A That's correct. In my -- working,
 22 yes.
 23 Q What was your job title in the
 24 calendar year 2009?
 25 A 2009? General assignment reporter.

53 (Pages 206 to 209)

<p style="text-align: right;">Page 210</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q And how about in 2010?</p> <p>3 A GA.</p> <p>4 Q Is that how -- by the way, is that</p> <p>5 the lingo, is it called GA?</p> <p>6 A "GA" is short for general</p> <p>7 assignment.</p> <p>8 Q Is that the same thing as a runner</p> <p>9 reporter?</p> <p>10 A I don't know where this term</p> <p>11 "runner reporter" came from, but I'm a</p> <p>12 general assignment reporter. I go out and I</p> <p>13 report on things going on in the street, in</p> <p>14 the field, and if there is occasion for me</p> <p>15 to write up my story or write my notes or to</p> <p>16 send my notes, that's what I do.</p> <p>17 Q Well, I've heard the term used</p> <p>18 "runner reporter."</p> <p>19 Do you know what that is?</p> <p>20 A I know in the evaluations I</p> <p>21 received, in at least one of them they have</p> <p>22 referred to me as a "runner," but I know</p> <p>23 that I wrote in my rebuttal to that that I'm</p> <p>24 a reporter. I'm a general assignment</p> <p>25 reporter. I'm not runner.</p>	<p style="text-align: right;">Page 211</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 Q Okay. So you were a general</p> <p>3 assignment reporter in 2009 and 2010. Were</p> <p>4 you also a GA in 2011?</p> <p>5 A That's correct. I'm doing the same</p> <p>6 thing.</p> <p>7 Q And when you say that since 2008</p> <p>8 you haven't been in the newsroom that often,</p> <p>9 how many times a month on average would you</p> <p>10 say you come into the newsroom?</p> <p>11 A A month?</p> <p>12 Q Yes. Like on average, any given</p> <p>13 month.</p> <p>14 A While I'm working? There certainly</p> <p>15 have been months when I don't come into the</p> <p>16 newsroom at all.</p> <p>17 Q And then what's the most times</p> <p>18 you'd say you've come into the newsroom</p> <p>19 since your return to the general assignment</p> <p>20 reporter position?</p> <p>21 MR. THOMPSON: Objection.</p> <p>22 A I don't really know. You are</p> <p>23 saying on a monthly basis? Are you saying</p> <p>24 overall.</p> <p>25 Q Yeah. In any given month, would</p>
<p style="text-align: right;">Page 212</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 you say you come in five times a month, ten</p> <p>3 times a month?</p> <p>4 A Certainly less than ten times a</p> <p>5 month.</p> <p>6 Q On average, how many bylines do you</p> <p>7 have in the paper on any given month?</p> <p>8 A I do not know.</p> <p>9 Q Do you ever calculate how many</p> <p>10 bylines you have per quarter, per year? Is</p> <p>11 that something you look at?</p> <p>12 A At one point, I did do a search and</p> <p>13 my byline has appeared thousands of times in</p> <p>14 the New York Post.</p> <p>15 Q During your 15 years of employment?</p> <p>16 A That's correct.</p> <p>17 Q So would you agree that you have a</p> <p>18 lot of stories that do get printed in the</p> <p>19 New York Post if you had thousands of</p> <p>20 bylines?</p> <p>21 A I had a lot of stories that did get</p> <p>22 printed in the New York Post.</p> <p>23 Certainly not as many in the last</p> <p>24 few years.</p> <p>25 Not counting 2008 when I had more</p>	<p style="text-align: right;">Page 213</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 front-page stories than certainly I ever had</p> <p>3 before and more stories than I think I've</p> <p>4 written in previous years.</p> <p>5 I did a lot of work in 2008. I</p> <p>6 worked on a lot of stories.</p> <p>7 Q And was that the year you covered</p> <p>8 the Sean Bell trial?</p> <p>9 A That's correct.</p> <p>10 Q How many front pages did you get --</p> <p>11 did you have in 2008?</p> <p>12 A I don't know exactly how many front</p> <p>13 pages I had, but for the most part just</p> <p>14 about every day of the trial, the story was</p> <p>15 on the front page. With the exception of</p> <p>16 Eliot Spitzer, I think.</p> <p>17 Q Do you know how many front pages</p> <p>18 you've had at the New York Post?</p> <p>19 A No, I don't.</p> <p>20 Q That's not something you count, I</p> <p>21 guess?</p> <p>22 A I really -- I framed my first front</p> <p>23 page story that I did. It was on Darryl</p> <p>24 Strawberry. And I did some other stories</p> <p>25 that I was very proud of that I framed that</p>

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1 IKIMULISA LIVINGSTON
 2 were front-page stories that were generated
 3 by me early on.
 4 But since then I haven't framed any
 5 front pages.
 6 Q Can you tell me what your day is
 7 like as a general assignment reporter?
 8 MR. THOMPSON: Objection.
 9 Q Do you understand the question?
 10 A My days vary.
 11 Q Okay. Well, you wake up and where
 12 do you go on a workday?
 13 MR. THOMPSON: Objection.
 14 A It really depends.
 15 Some days I have an overnighted, so
 16 I get up and I go to whatever assignment I
 17 was overnighted to.
 18 Other days I call in and check in
 19 with the desk and I'm either assigned
 20 something and I go or and I'm told they will
 21 call me back and give me an assignment.
 22 Q What does it mean -- what do you
 23 mean when you say you were overnighted?
 24 A Overnighted is when someone calls
 25 me the night before my shift begins. Let's

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1 IKIMULISA LIVINGSTON
 2 A In the last year, no.
 3 Q Do you seek out stories that
 4 require air travel?
 5 MR. THOMPSON: Objection.
 6 A Have I asked to fly somewhere for a
 7 story?
 8 Q Yes.
 9 A No.
 10 Q Do you enjoy travel for work?
 11 MR. THOMPSON: Objection.
 12 A There was a time when I did -- the
 13 times I did travel for work, I enjoyed.
 14 Q Have you expressed an interest in
 15 traveling to your supervisors?
 16 A Are you saying recently?
 17 Q Recently, in the last two years.
 18 A I have not come to my supervisors
 19 and said I want to travel, no.
 20 Q You work 9 to 5, correct?
 21 A Correct.
 22 Q And you don't work weekends now; is
 23 that correct?
 24 A I do not work weekends now.
 25 Q And you wanted this schedule; is

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1 IKIMULISA LIVINGSTON
 2 say a Sunday when I'm off, someone will call
 3 me in the evening or early afternoon, you
 4 know, sometime during the day or evening,
 5 and give me an assignment for the next day.
 6 Q How often does that happen?
 7 A Happens pretty frequently.
 8 Q What area would you say you cover,
 9 if there was a particular area?
 10 MR. THOMPSON: Objection.
 11 Q Geographically.
 12 So let me withdraw that and
 13 rephrase the question.
 14 Do you cover any particular
 15 geographic area as a general assignment
 16 reporter with the New York Post?
 17 A I am mostly sent on stories that
 18 are in Queens, Brooklyn, The Bronx,
 19 Manhattan. Sometimes I'm sent to New
 20 Jersey. Sometimes I'm sent to Connecticut.
 21 I've been sent to Pennsylvania.
 22 I've been sent to Texas, Mississippi, New
 23 Orleans.
 24 Q Have you reported in any stories
 25 that require air travel in the last year?

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1 IKIMULISA LIVINGSTON
 2 that right?
 3 A This is the schedule that was given
 4 to me when I was moved from the
 5 Sunday-through-Thursday shift so I can cover
 6 the Sean Bell trial, so it was 9 to 5 and it
 7 was Monday through Friday.
 8 Q And you are happy with that
 9 schedule, though; isn't that right?
 10 A Yes, I like that schedule.
 11 Q Are you aware of the fact that you
 12 are the only full-time general assignment
 13 reporter at the New York Post who doesn't
 14 work weekends and works daylight hours?
 15 A No. I'm not really privy to other
 16 people's schedules.
 17 Q You're not privy to what other
 18 people are doing as general assignment
 19 reporters at the Post?
 20 MR. THOMPSON: Objection.
 21 A I'm not privy to other reporters'
 22 schedules.
 23 Q Prior to assignment to the Queens
 24 Courthouse, you were also a general
 25 assignment reporter; is that right?

55 (Pages 214 to 217)

<p style="text-align: right;">Page 226</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 the story and I would turn in that length.</p> <p>3 And some time after I turned the story in,</p> <p>4 they would decide on numerous occasions that</p> <p>5 they wanted a shorter story, and therefore</p> <p>6 they would either cut it down and rewrite it</p> <p>7 in the process of cutting.</p> <p>8 MS. LOVINGER: Can the court</p> <p>9 reporter just read back the last</p> <p>10 question because I don't think we</p> <p>11 have an answer still.</p> <p>12 (Requested portion of record read:</p> <p>13 "Q. Ms. Livingston, is it your</p> <p>14 testimony that the majority of the</p> <p>15 stories you wrote while you were a Queens</p> <p>16 Courthouse reporter were not rewritten by</p> <p>17 one of your editors?")</p> <p>18 (End of read-back.)</p> <p>19 A I thought I answered that.</p> <p>20 Q Well, I don't want to summarize</p> <p>21 your testimony, but your last answer was</p> <p>22 basically in the end you said, "They would</p> <p>23 decide on numerous occasions that they</p> <p>24 wanted a shorter story and therefore they</p> <p>25 would cut it down and rewrite it in the</p>	<p style="text-align: right;">Page 227</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 process of cutting."</p> <p>3 So are you saying that the majority</p> <p>4 of your stories were rewritten, for whatever</p> <p>5 reason, while you were a Queens Courthouse</p> <p>6 reporter?</p> <p>7 MR. THOMPSON: Objection.</p> <p>8 A I'm saying that on occasions --</p> <p>9 Q It's a yes or no question.</p> <p>10 I mean, you could explain the</p> <p>11 process and you've actually already done</p> <p>12 that, but you're not answering the question.</p> <p>13 And this is a yes or no question.</p> <p>14 MS. LOVINGER: Do you want to</p> <p>15 read it back.</p> <p>16 MR. THOMPSON: Objection. Are</p> <p>17 you asking does she want it read</p> <p>18 back?</p> <p>19 MS. LOVINGER: I'm asking for</p> <p>20 it to be read back because we're</p> <p>21 wasting ten minutes on one question.</p> <p>22 MR. THOMPSON: That's fine.</p> <p>23 MS. LOVINGER: It's</p> <p>24 frustrating.</p> <p>25 MR. THOMPSON: It's frustrating</p>
<p style="text-align: right;">Page 228</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 you keep asking the same question.</p> <p>3 MS. LOVINGER: Get an answer,</p> <p>4 it's yes or no, and we can move on.</p> <p>5 We don't care what the answer is,</p> <p>6 just we want the question answered.</p> <p>7 MR. THOMPSON: She's answered</p> <p>8 it.</p> <p>9 MS. LOVINGER: Okay. I didn't</p> <p>10 hear the yes or no.</p> <p>11 Could the court reporter please</p> <p>12 read back the last question.</p> <p>13 (Requested portion of record read:</p> <p>14 "Q. Ms. Livingston, is it your</p> <p>15 testimony that the majority of the</p> <p>16 stories you wrote while you were a Queens</p> <p>17 Courthouse reporter were not rewritten by</p> <p>18 one of your editors?")</p> <p>19 (End of read-back.)</p> <p>20 A I'm not saying that they were</p> <p>21 rewritten. I said that they were cut and in</p> <p>22 the process of cutting them, they would make</p> <p>23 changes to the story.</p> <p>24 And cutting them means you have to</p> <p>25 essentially condense all of the information</p>	<p style="text-align: right;">Page 229</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 there to a shorter story.</p> <p>3 Q Well, do they condense it by</p> <p>4 reducing the font or do they have to</p> <p>5 actually rewrite it?</p> <p>6 A I'm not aware of them reducing the</p> <p>7 font.</p> <p>8 Q So basically, the stories do have</p> <p>9 to be rewritten; is that your testimony?</p> <p>10 A If they are cutting the stories</p> <p>11 from 12 inches down to 3 inches, then, yes,</p> <p>12 you are rewriting what was in 12 inches down</p> <p>13 to 3 because obviously you can't run</p> <p>14 12 inches in a 3-inch space.</p> <p>15 Q Ms. Livingston, you testified</p> <p>16 earlier that when your assignment was</p> <p>17 changed from the Queens Courthouse reporter</p> <p>18 position to a general assignment reporter,</p> <p>19 your salary did not change; is that right?</p> <p>20 A Yes. When I went from going GA to</p> <p>21 the Queens Courthouse, my salary did not</p> <p>22 change.</p> <p>23 Q And when you went from Queens</p> <p>24 Courthouse reporter back to a general</p> <p>25 assignment reporter in December 2008, your</p>

Page 230	Page 231
<p>1 IKIMULISA LIVINGSTON</p> <p>2 salary also didn't change; is that right?</p> <p>3 A That's correct. My base salary did</p> <p>4 not change.</p> <p>5 Q So why do you believe that Billy</p> <p>6 Gorta's salary should have been reduced when</p> <p>7 he went from being an editor to the Queens</p> <p>8 Courthouse reporter?</p> <p>9 A I just stated that Billy Gorta</p> <p>10 doing the same job, actually doing less, but</p> <p>11 in the same job that I was in in the same</p> <p>12 position, he was making an editor's salary</p> <p>13 while I was not. And I know that an</p> <p>14 editor's salary is more than mine.</p> <p>15 Q And are you aware of the fact that</p> <p>16 your Queens Courthouse reporter salary is</p> <p>17 higher than the salary of other general</p> <p>18 assignment reporters?</p> <p>19 MR. THOMPSON: Objection.</p> <p>20 A I don't have a list of what other</p> <p>21 reporters make.</p> <p>22 Q You were never an editor at the New</p> <p>23 York Post; is that right?</p> <p>24 A No, no. I know there are occasions</p> <p>25 when -- never mind. No, I was never an</p>	<p>1 IKIMULISA LIVINGSTON</p> <p>2 editor at the New York Post.</p> <p>3 Q Are you unhappy with the terms and</p> <p>4 conditions of your employment at the New</p> <p>5 York Post?</p> <p>6 A I'm unhappy about the hostile and</p> <p>7 racial environment that I work in, yes.</p> <p>8 Q In the last five years, have you</p> <p>9 sought employment elsewhere?</p> <p>10 A Last five years, yes.</p> <p>11 Q Where have you applied for other</p> <p>12 jobs?</p> <p>13 A I've applied at universities. I've</p> <p>14 applied at The New York Times. I've applied</p> <p>15 for public relations jobs. That sort of</p> <p>16 thing.</p> <p>17 Q And what was the last one? Public</p> <p>18 relation job?</p> <p>19 A That's correct.</p> <p>20 Q Someone told me recently you don't</p> <p>21 apply for jobs at The New York Times.</p> <p>22 But how did you find out about</p> <p>23 an opening at The New York Times?</p> <p>24 A I didn't find out about an opening.</p> <p>25 I attended a job conferences and The New</p>
Page 232	Page 233
<p>1 IKIMULISA LIVINGSTON</p> <p>2 York Times had a booth there, a recruiter</p> <p>3 there, and I submitted my resume.</p> <p>4 Q For what type of position did you</p> <p>5 submit your resume?</p> <p>6 A For a reporter position.</p> <p>7 Q When was this job conference?</p> <p>8 A I don't remember which conference</p> <p>9 it was. It was an NABJ conference.</p> <p>10 Q NABJ?</p> <p>11 A NABJ stands for National</p> <p>12 Association of Black Journalists.</p> <p>13 Q Where was this NABJ conferences</p> <p>14 held?</p> <p>15 A NABJ has conferences in different</p> <p>16 cities every year.</p> <p>17 Q Well, when was the last time you</p> <p>18 went to the NABJ conference?</p> <p>19 A I attended the conference last</p> <p>20 year.</p> <p>21 Q Where was it held last year?</p> <p>22 A Philadelphia.</p> <p>23 Q So that was in 2011. What month</p> <p>24 was that?</p> <p>25 MR. THOMPSON: Objection.</p>	<p>1 IKIMULISA LIVINGSTON</p> <p>2 Which question are you asking? What</p> <p>3 year or what month?</p> <p>4 MS. LOVINGER: Well, she said</p> <p>5 it was 2011.</p> <p>6 Q Do you know what month in 2011 you</p> <p>7 attended the NABJ conference in</p> <p>8 Philadelphia?</p> <p>9 A It's in the summer, so it's usually</p> <p>10 July -- either in July or August. I'm not</p> <p>11 sure which one right now. July or August, I</p> <p>12 believe.</p> <p>13 Q Did you apply to any other news</p> <p>14 organization other than The New York Times</p> <p>15 at the NABJ conference in 2011?</p> <p>16 A I didn't say I applied for The New</p> <p>17 York Times at the 2011 conference.</p> <p>18 Q You submitted a resume?</p> <p>19 A Not at that conference.</p> <p>20 Q Oh, not at that conference.</p> <p>21 Well, okay. We'll back up in a</p> <p>22 minute but in 2011, did you submit a resume</p> <p>23 or application for any positions either</p> <p>24 during or after the NABJ conference?</p> <p>25 A During the conference I attended</p>

<p style="text-align: right;">Page 246</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A What other reason?</p> <p>3 Q Yeah.</p> <p>4 A Wanted to talk to them.</p> <p>5 Q About story ideas or just social</p> <p>6 reasons?</p> <p>7 A It depends.</p> <p>8 Q And you do communicate with other</p> <p>9 New York Post employees during the day,</p> <p>10 isn't that right?</p> <p>11 A Not on a daily basis unless it's a</p> <p>12 story that we're working on together. And a</p> <p>13 lot of times I don't actually know who the</p> <p>14 other reporters are working on a story, on</p> <p>15 the same story I'm working on.</p> <p>16 Q But you are free to call any New</p> <p>17 York Post employee you want during the day,</p> <p>18 right?</p> <p>19 MR. THOMPSON: Objection.</p> <p>20 A Is this the way I'm supposed to be</p> <p>21 speaking with my colleagues, is just by</p> <p>22 randomly calling someone? Because that</p> <p>23 doesn't really seem like an organic way</p> <p>24 to --</p> <p>25 Q Are you asking me a question?</p>	<p style="text-align: right;">Page 247</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A I apologize if I'm asking you a</p> <p>3 question. I don't understand the context of</p> <p>4 your question.</p> <p>5 Q Are you not free to call the</p> <p>6 newsroom at any point during the day?</p> <p>7 MR. THOMPSON: Objection.</p> <p>8 Q Is that right?</p> <p>9 A I'm free to call (212)930-8500</p> <p>10 whenever I'd like, yes.</p> <p>11 Q And someone will answer the phone,</p> <p>12 right?</p> <p>13 A And someone will answer the phone,</p> <p>14 yes. Sometimes someone will answer the</p> <p>15 phone.</p> <p>16 Q Now, doesn't the New York Post</p> <p>17 reimburse a part of your cellphone bill?</p> <p>18 A Yes. They reimburse me two-thirds</p> <p>19 of the bill. However, I actually paid for</p> <p>20 the device.</p> <p>21 Q Well, you also use the device for</p> <p>22 personal reasons; isn't that right?</p> <p>23 A The device is my phone, yes.</p> <p>24 Q So it's contemplated that you'll</p> <p>25 use your phone for work-related reasons,</p>
<p style="text-align: right;">Page 248</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 correct?</p> <p>3 A Yes, in order to give my notes to a</p> <p>4 rewrite person, yeah. I use my phone to</p> <p>5 relay those notes.</p> <p>6 Q And your phone enables you to be</p> <p>7 contacted when you are out running on</p> <p>8 assignments, correct?</p> <p>9 A That's correct. It allows the</p> <p>10 editors to reach out to me.</p> <p>11 Q And it's your cellphone; therefore,</p> <p>12 you can be reached immediately. Is that</p> <p>13 right?</p> <p>14 A Yeah, usually.</p> <p>15 Q And other general assignment</p> <p>16 reporters also use personal cellphones;</p> <p>17 isn't that right?</p> <p>18 A I think most people in this day and</p> <p>19 age have cellphones, yeah, including other</p> <p>20 general assignment reporters.</p> <p>21 Q But the question was: Other</p> <p>22 general assignment reporters also use their</p> <p>23 personal cellphones to carry out their</p> <p>24 reporting responsibilities; isn't that</p> <p>25 right?</p>	<p style="text-align: right;">Page 249</p> <p>1 IKIMULISA LIVINGSTON</p> <p>2 A I believe other reporters use their</p> <p>3 cellphones, yes.</p> <p>4 Q Ms. Livingston, you testified</p> <p>5 earlier that you've heard Ms. Gotthelf and</p> <p>6 Mr. Greenfield use the term "low rent"; is</p> <p>7 that right?</p> <p>8 A That's correct.</p> <p>9 Q Now, Ms. Gotthelf and</p> <p>10 Mr. Greenfield never said that stories about</p> <p>11 African-Americans and Latinos are low rent;</p> <p>12 isn't that right?</p> <p>13 A No, not at any time did they come</p> <p>14 right out and say, "Stories about black</p> <p>15 people and Latinos are low rent." They just</p> <p>16 refer to stories about African-Americans and</p> <p>17 Latinos as low rent.</p> <p>18 Q So Ms. Livingston, you are saying</p> <p>19 that Ms. Gotthelf and Mr. Greenfield</p> <p>20 described some stories that happened to be</p> <p>21 about African-Americans and/or Latinos as</p> <p>22 low rent; is that right?</p> <p>23 A On a frequent basis, yes.</p> <p>24 Q Are these stories that Ms. Gotthelf</p> <p>25 and Mr. Greenfield referred to as low rent</p>

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1 IKIMULISA LIVINGSTON
 2 for them to remove me and further
 3 demonstrates the pattern of racism that
 4 continues to exist at the New York Post.
 5 Q Did you do anything different in
 6 terms of your performance after you received
 7 this e-mail from Ms. Gotthelf?
 8 MR. THOMPSON: Objection.
 9 A Did I do anything different -- I'm
 10 not quite sure I understand.
 11 Q Did you do anything different in
 12 terms of how you performed your job at the
 13 Queens Courthouse after you received this
 14 e-mail from Michelle Gotthelf?
 15 A I continued to look for good and
 16 interesting, newsworthy lawsuits in the
 17 civil courthouse.
 18 I continued to cover whatever
 19 criminal cases that were ongoing at the
 20 Queens County Courthouse. I continued to
 21 check the files for various defendants. I
 22 continued to work on whatever stories were
 23 ongoing in the courthouse.
 24 I was consistent in terms of being
 25 persistent in looking for good stories for

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1 IKIMULISA LIVINGSTON
 2 Q The what courthouse?
 3 A Sutphin.
 4 Q The what courthouse?
 5 A Sutphin.
 6 Q Okay. Is that the Queens
 7 Courthouse?
 8 A It's the civil -- where civil
 9 lawsuits are filed.
 10 Q Did you do anything else different?
 11 A And I pitched them good story
 12 ideas.
 13 Q When you pitched stories to
 14 Michelle Gotthelf and Dan Greenfield, was it
 15 your practice to tell them the race of the
 16 individuals involved in the stories?
 17 A I'm not sure I put in race for
 18 certain individuals or for certain story
 19 pitches that I presented.
 20 Q So when Ms. Gotthelf and
 21 Mr. Greenfield rejected --
 22 MS. LOVINGER: I'm going to
 23 withdraw that question.
 24 Q Shortly after Col Allan became
 25 editor in chief in 2001, he fired six

1 IKIMULISA LIVINGSTON
 2 the Post and pitching good stories.
 3 Q Well, you know, you just described
 4 everything you continued doing.
 5 But my question is: Did you do
 6 anything different in terms of how you
 7 performed your job at the Queens Courthouse
 8 after you received this e-mail from Michelle
 9 Gotthelf?
 10 That's a yes/no question.
 11 Did you do anything different?
 12 A I continued to do my job.
 13 Q Is that a no?
 14 A I did my job.
 15 Q So did you do --
 16 MS. LOVINGER: I'll ask
 17 Mr. Thompson if he can instruct the
 18 witness to answer the question.
 19 BY MS. LOVINGER:
 20 Q Did you do anything different in
 21 terms of how you performed your job at the
 22 Queens Courthouse after you received this
 23 e-mail from Michelle Gotthelf?
 24 A I spent more time at the Sutphin
 25 Courthouse look for lawsuits.

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1 IKIMULISA LIVINGSTON
 2 editors at the Post; isn't that correct?
 3 A I don't know the exact number of
 4 editors but I know he fired a number of
 5 editors including Lisa Baird, who had been
 6 the only African-American editor on the
 7 Metro desk.
 8 And no one has filled her position
 9 in terms of being an African-American on the
 10 Metro desk. And soon after she was fired
 11 she died of cancer.
 12 Q And he also fired Stuart Marks?
 13 A Yes.
 14 Q And Col Allan also fired Jack
 15 Newfield?
 16 A I believe that's correct.
 17 Q Col Allan also fired Jerry
 18 Schmetterer.
 19 A Yes, he fired Jerry Schmetterer,
 20 too.
 21 Q Col Allan also fired Michael Lewis
 22 and Col Allan also fired Mark Kalish?
 23 A I remember Mark, yes. I don't know
 24 about the other guy. I'm not really sure
 25 about him.

76 (Pages 298 to 301)

1 I. Livingston

2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----x
AUSTIN FENNER and IKIMULISA LIVINGSTON,

5 Plaintiffs,

6 vs. 09 CV 9832
(BSJ) (RLE)

7 NEWS CORPORATION, NYP HOLDINGS, INC.,
8 d/b/a THE NEW YORK POST and DAN
9 GREENFIELD and MICHELLE GOTTHELF,

Defendants.

10 -----x

11 CONTINUED VIDEOTAPED

12 DEPOSITION OF IKIMULISA LIVINGSTON

13 New York, New York

14 February 20, 2013

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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 57653

<p style="text-align: right;">Page 366</p> <p>1 I. Livingston</p> <p>2 wait in the line for the general public.</p> <p>3 Q. Okay. But you might have to wait in a</p> <p>4 line for people who had went through a separate</p> <p>5 entrance?</p> <p>6 Let me withdraw that. Was there a</p> <p>7 separate press entrance?</p> <p>8 A. No, there wasn't a separate press</p> <p>9 entrance.</p> <p>10 Q. Okay. But there was an entrance for</p> <p>11 the -- for people other than the general public?</p> <p>12 A. Yes.</p> <p>13 Q. And sometimes there was a line at that</p> <p>14 entrance?</p> <p>15 A. Usually there wasn't much of a line.</p> <p>16 Sometimes there would be people in front of me.</p> <p>17 Q. When you worked at the Queens courts,</p> <p>18 how -- how would you research cases about civil</p> <p>19 filings?</p> <p>20 A. I would go to the Sutphin Boulevard</p> <p>21 courthouse and look up -- look through -- look</p> <p>22 through their filings on the computer system.</p> <p>23 Q. And --</p> <p>24 A. That would be the usual way to -- to</p> <p>25 go about looking for stories, in general.</p>	<p style="text-align: right;">Page 367</p> <p>1 I. Livingston</p> <p>2 Sometimes I would have a lawyer source</p> <p>3 who would present me with a story, with a case</p> <p>4 that he had or she had.</p> <p>5 Q. And how often did you go to the civil</p> <p>6 courthouse to review civil filings in say 2008?</p> <p>7 A. Oh, I -- I couldn't tell you. I don't</p> <p>8 know. I don't remember.</p> <p>9 Q. How often did you go to the civil</p> <p>10 courthouse during your time as a -- as the</p> <p>11 Queens court reporter generally to research</p> <p>12 civil filings?</p> <p>13 A. How many times? I don't recall how</p> <p>14 many times I would go.</p> <p>15 Q. Was it more or less than once a week?</p> <p>16 A. Sometimes it was more than once a</p> <p>17 week. Sometimes it was less than once a week.</p> <p>18 Q. So there were weeks that you didn't go</p> <p>19 to the civil courthouse at all to research</p> <p>20 filings?</p> <p>21 A. I don't recall if there were -- if</p> <p>22 there was a single week that went by that I</p> <p>23 didn't go to the courthouse. However -- to the</p> <p>24 Sutphin courthouse. However, if there was --</p> <p>25 actually, I just don't recall.</p>
<p style="text-align: right;">Page 368</p> <p>1 I. Livingston</p> <p>2 Q. Do you have a TD Bank account?</p> <p>3 A. Yes, I do.</p> <p>4 Q. How long have you had a TD Bank bank</p> <p>5 account?</p> <p>6 A. For several years.</p> <p>7 Q. Do you know what year you took that</p> <p>8 out?</p> <p>9 A. I'm not 100 percent sure when I opened</p> <p>10 that account.</p> <p>11 Q. Do you have any loans with TD Bank?</p> <p>12 A. No, I do not.</p> <p>13 Q. Did you say "no" or "now, I do not"?</p> <p>14 A. No, I do not.</p> <p>15 Q. Have you ever?</p> <p>16 A. No, I've never had a loan with TD</p> <p>17 Bank.</p> <p>18 Q. Now, on your first day of deposition,</p> <p>19 you testified that you had done mystery shopping</p> <p>20 for companies called Shop 'n Chek and</p> <p>21 Contemporary Staffing Solutions, do you recall</p> <p>22 that?</p> <p>23 A. Yes, I do.</p> <p>24 Q. And when you mystery shopped for</p> <p>25 Contemporary Staffing Solutions, you were</p>	<p style="text-align: right;">Page 369</p> <p>1 I. Livingston</p> <p>2 mystery shopping at TD Bank branches, correct?</p> <p>3 A. Yes, that's correct.</p> <p>4 Q. Did you mystery shop for any other</p> <p>5 businesses when you were working for</p> <p>6 Contemporary Staffing Solutions through that</p> <p>7 company?</p> <p>8 A. Oh, yes. Before TD Bank was TD Bank,</p> <p>9 it used to be Commerce.</p> <p>10 Q. Other than TD Bank and Commerce Bank,</p> <p>11 did you mystery shop at any other businesses</p> <p>12 through your employment with Contemporary</p> <p>13 Staffing Solutions?</p> <p>14 A. No.</p> <p>15 Q. You also mystery shopped for Shop 'n</p> <p>16 Chek. What companies did you mystery shop at</p> <p>17 when you were working for Shop 'n Chek?</p> <p>18 A. For the most part, those would be</p> <p>19 the -- the businesses would be mobile phone</p> <p>20 locations and other locations.</p> <p>21 Q. What -- so did that include Verizon?</p> <p>22 A. Yes.</p> <p>23 Q. T Mobile?</p> <p>24 A. Yes.</p> <p>25 Q. AT&T?</p>

<p style="text-align: right;">Page 378</p> <p>1 I. Livingston</p> <p>2 go to the branch and go in and speak to the</p> <p>3 personnel at the branch, correct?</p> <p>4 A. That's -- that's -- basically, what I</p> <p>5 would do is I would perform a -- a shop. So I</p> <p>6 would either speak to a teller, do a teller</p> <p>7 transaction, or perhaps speak to a customer</p> <p>8 service representative.</p> <p>9 Q. And when you did a transaction, did</p> <p>10 you do a real transaction? In other words, did</p> <p>11 you carry out an entire transaction at TD Bank?</p> <p>12 A. Such as making a withdrawal?</p> <p>13 Q. Correct.</p> <p>14 A. Yes.</p> <p>15 Q. So you would go to a teller and maybe</p> <p>16 take out \$20, and that would be the transaction?</p> <p>17 A. That's correct.</p> <p>18 Q. Did you always do a transaction when</p> <p>19 you mystery shopped?</p> <p>20 A. No, not always.</p> <p>21 Q. When you didn't do a transaction, what</p> <p>22 would you do in the bank?</p> <p>23 A. I would speak to a customer service</p> <p>24 representative.</p> <p>25 Q. Well, what would you speak about?</p>	<p style="text-align: right;">Page 379</p> <p>1 I. Livingston</p> <p>2 A. I -- it depended on the kind of shop,</p> <p>3 but I would ask them about perhaps their credit</p> <p>4 cards, their credit card rates; I would ask them</p> <p>5 about mortgages, what kinds of mortgages they</p> <p>6 had, what kind of rates they had; I would ask</p> <p>7 them about their savings accounts, what kinds of</p> <p>8 interest rates they offered; maybe I would ask</p> <p>9 them about a checking account, those sort of</p> <p>10 things; auto loan.</p> <p>11 Q. And had you been instructed by</p> <p>12 Contemporary Staffing Solutions on what kinds of</p> <p>13 topics they wanted you to raise with customer</p> <p>14 service representatives?</p> <p>15 A. There were a list -- there would</p> <p>16 usually be a list of topics to discuss.</p> <p>17 Q. And these weren't necessarily topics</p> <p>18 that you personally, Ms. Livingston, wanted to</p> <p>19 do business with the bank on, right?</p> <p>20 MR. PEARSON: Objection.</p> <p>21 Q. You weren't looking for a mortgage</p> <p>22 from TD Bank at the time that you talked about</p> <p>23 mortgages, right?</p> <p>24 MR. PEARSON: Objection.</p> <p>25 A. Well, actually, there -- there was a</p>
<p style="text-align: right;">Page 380</p> <p>1 I. Livingston</p> <p>2 time when I did ask them about mortgages because</p> <p>3 I was interested in a mortgage.</p> <p>4 Q. But there were times when you asked</p> <p>5 them about mortgages when your sole purpose was</p> <p>6 to do research at the banks, right, mystery</p> <p>7 shop?</p> <p>8 MR. PEARSON: Objection.</p> <p>9 A. My sole purpose -- I'm sorry, what was</p> <p>10 the question again?</p> <p>11 Q. There were times you talked to them</p> <p>12 about mortgages when your sole purpose was to</p> <p>13 mystery shop, right?</p> <p>14 MR. PEARSON: Objection.</p> <p>15 A. My purpose as a mystery is shop was to</p> <p>16 evaluate the employee, so that's --</p> <p>17 Q. When you spoke to them about</p> <p>18 mortgages, there were many times when you spoke</p> <p>19 to them about mortgages with no intention of</p> <p>20 taking out a mortgage, right?</p> <p>21 MR. PEARSON: Objection.</p> <p>22 A. I was evaluating them on their work,</p> <p>23 so, no, there may not be -- I wasn't necessarily</p> <p>24 interested in taking out a mortgage.</p> <p>25 Q. So you were posing as somebody who was</p>	<p style="text-align: right;">Page 381</p> <p>1 I. Livingston</p> <p>2 interested in taking out a mortgage, right?</p> <p>3 MR. PEARSON: Objection.</p> <p>4 A. I was performing a mystery shop.</p> <p>5 Q. You were pretending to be somebody who</p> <p>6 was interested in a mortgage, but you weren't,</p> <p>7 right?</p> <p>8 MR. PEARSON: Objection.</p> <p>9 A. I was simply performing a mystery</p> <p>10 shop, which was the requirements of the mystery</p> <p>11 shopping program.</p> <p>12 Q. And the requirements were that you</p> <p>13 pretend to be something, to be interested in</p> <p>14 something that you weren't actually interested</p> <p>15 in, right?</p> <p>16 MR. PEARSON: Objection.</p> <p>17 A. I guess I'm not really sure how to --</p> <p>18 how to answer that since I do bank at TD Bank,</p> <p>19 so there are times when I am interested in the</p> <p>20 things that they're telling me about.</p> <p>21 Q. But there are times that you were not</p> <p>22 interested in the things that you were asking</p> <p>23 about, correct?</p> <p>24 MR. PEARSON: Objection.</p> <p>25 A. For the most part, I was interested in</p>

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1 I. Livingston
 2 learning more information about the topics that
 3 I did ask them about.
 4 Q. You weren't interested in your -- for
 5 your own -- you were interested in it because
 6 your employer had assigned you to mystery shop,
 7 right? You weren't interested in it because you
 8 wanted that -- that service at the time,
 9 correct?
 10 MR. PEARSON: Objection as to
 11 "employer." Objection, asked and answered.
 12 A. I was doing a mystery shop, and I
 13 didn't ever really look at them as my employer.
 14 My employee is The New York Post. Or, my
 15 employer, I'm sorry, is The New York Post.
 16 Q. As part of your mystery shopping, you
 17 were also required to look at different areas in
 18 the interior of the bank, correct?
 19 A. I'm sorry, I was -- I was to observe
 20 the premises, yes.
 21 Q. You were to look at the penny arcade
 22 machine, correct?
 23 A. That's correct.
 24 Q. The display, correct?
 25 A. The display monitors, yes.

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1 I. Livingston
 2 right afterwards, yes.
 3 Q. You did that -- you did that on a
 4 notepad?
 5 A. No.
 6 Q. How did you do that?
 7 A. It would be on the -- on the
 8 transaction slip, if I did that at all.
 9 Q. When you mystery shopped for Shop 'n
 10 Chek, you would go to mobile phone stores and
 11 you would also go to Office Depot and McDonald's
 12 as well, right?
 13 MR. PEARSON: Objection.
 14 A. There were -- when I performed mystery
 15 shops for Shop 'n Chek, I did perform mystery
 16 shops for them for some McDonald's and -- and an
 17 office supply store.
 18 Q. And you would make purchases at those
 19 stores?
 20 A. At McDonald's and the office supply
 21 store?
 22 Q. Yes.
 23 A. Yes.
 24 Q. Did Shop 'n Chek reimburse you for
 25 purchases you made during mystery shops?

1 I. Livingston
 2 Q. The condition of the premises for
 3 cleanliness, correct?
 4 A. That's correct.
 5 Q. And you would report back to your --
 6 to Contemporary Staffing Solutions about what
 7 you saw, right?
 8 A. That's correct.
 9 Q. Sometimes you would do more than one
 10 mystery shop in a given day, correct?
 11 A. Yes.
 12 Q. Sometimes you did, in fact, as many as
 13 four mystery shops in a given day, right?
 14 MR. PEARSON: Objection.
 15 A. I don't recall.
 16 Q. Even more?
 17 MR. PEARSON: Objection.
 18 Q. Right?
 19 A. I don't recall.
 20 Q. Okay. When you mystery shopped at
 21 multiple banks on a given day, did you take
 22 notes so that when you filed your reports, you
 23 could remember which experiences you had at
 24 which banks?
 25 A. Sometimes I would jot down information

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1 I. Livingston
 2 A. Most of the time, yes.
 3 Q. And a single mystery shop could take
 4 half an hour, right?
 5 MR. PEARSON: Objection.
 6 A. Mystery shops normally didn't take a
 7 half hour, no.
 8 Q. But it could take a half an hour,
 9 right?
 10 MR. PEARSON: Objection.
 11 A. I don't recall doing any mystery shops
 12 that took a half hour.
 13 (Livingston Exhibit 18, Shop History
 14 of Ikimulisa Livingston, bearing Bates Nos.
 15 NYP-FL00380 through 3998, marked for
 16 identification, as of this date.)
 17 BY MR. LERNER:
 18 Q. Ms. Livingston, I'm putting in front
 19 of you a document marked Exhibit 18, which was
 20 produced to you in this litigation. Do you see
 21 that?
 22 A. I do see that document in front of me,
 23 yes.
 24 Q. And this is a record of the mystery
 25 shopping that you did through Contemporary

<p style="text-align: right;">Page 390</p> <p>1 I. Livingston</p> <p>2 shopping at TD Bank, you weren't at the</p> <p>3 courthouse, right?</p> <p>4 A. If I was in a store doing a mystery</p> <p>5 shop, I was not at the courthouse.</p> <p>6 Q. Right. You were -- you would be at a</p> <p>7 TD Bank, right?</p> <p>8 A. I would have been, for an in-person</p> <p>9 shop, I would have been at the bank.</p> <p>10 Q. Right. And if you were at the bank,</p> <p>11 you weren't in a courtroom observing a courtroom</p> <p>12 proceeding, right?</p> <p>13 MR. PEARSON: Objection.</p> <p>14 A. If I'm at the bank, I'm not actually</p> <p>15 in the courthouse, no.</p> <p>16 Q. If you're at the bank, you're not</p> <p>17 meeting with a source talking about a court</p> <p>18 case, right?</p> <p>19 MR. PEARSON: Objection.</p> <p>20 Q. Is that correct?</p> <p>21 MR. PEARSON: Objection.</p> <p>22 A. I actually could be talking to a</p> <p>23 source if I'm at the bank, yes.</p> <p>24 Q. Did you ever talk to a source during a</p> <p>25 mystery shop at a TD Bank?</p>	<p style="text-align: right;">Page 391</p> <p>1 I. Livingston</p> <p>2 A. I can't say I did or did not. I could</p> <p>3 have.</p> <p>4 Q. Well, you mystery shopped at TD Bank</p> <p>5 hundreds of times, Ms. Livingston. How many of</p> <p>6 those times do you think you actually met a</p> <p>7 source at the bank while you were mystery</p> <p>8 shopping?</p> <p>9 MR. PEARSON: Objection. Not her</p> <p>10 testimony.</p> <p>11 A. I didn't say I met a source at the</p> <p>12 bank, but I could have certainly and probably</p> <p>13 was on the phone with someone.</p> <p>14 Q. You were on the phone with somebody --</p> <p>15 Ms. Livingston, can I remind you</p> <p>16 you're under oath?</p> <p>17 Yes or no, Ms. Livingston?</p> <p>18 A. Yes, you may remind me, yes.</p> <p>19 Q. You're in a bank mystery shopping,</p> <p>20 doing research for Contemporary Staffing</p> <p>21 Solutions by speaking with tellers, speaking</p> <p>22 with customer service representatives, and your</p> <p>23 testimony is that you'd be on the phone talking</p> <p>24 to a source during that time period?</p> <p>25 A. I could have been.</p>
<p style="text-align: right;">Page 392</p> <p>1 I. Livingston</p> <p>2 MR. PEARSON: Objection.</p> <p>3 A. There were certainly times, I'm sure,</p> <p>4 that the telephone rang and I answered the call.</p> <p>5 Q. And how many times did that happen</p> <p>6 when you were in a TD Bank doing mystery</p> <p>7 shopping?</p> <p>8 A. I can't recall how many times it</p> <p>9 happened.</p> <p>10 Q. Can you recall any specific times?</p> <p>11 A. Offhand right now, I don't recall any</p> <p>12 specific times.</p> <p>13 Q. Okay. All right. How long, Ms.</p> <p>14 Livingston, would it take you to drive from the</p> <p>15 Queens Criminal Courthouse to the TD Bank branch</p> <p>16 in Corona, Queens?</p> <p>17 A. I'm not really sure exactly how long</p> <p>18 it would take. It would take a few minutes.</p> <p>19 Q. Would it take more than five minutes?</p> <p>20 A. It would probably take more than five</p> <p>21 minutes, yes.</p> <p>22 Q. Would it take more than 15 minutes?</p> <p>23 A. It would depend, but 15 minutes sounds</p> <p>24 like a -- I'm not really sure exactly how long</p> <p>25 it would take, but it wouldn't take very long.</p>	<p style="text-align: right;">Page 393</p> <p>1 I. Livingston</p> <p>2 Q. All right. Sometimes during the day</p> <p>3 you shopped at multiple TD Bank branches,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. So you would drive from the courthouse</p> <p>7 to the first TD Bank branch, then to the next TD</p> <p>8 Bank branch, and then to any subsequent TD Bank</p> <p>9 branches that you shopped at, correct?</p> <p>10 MR. PEARSON: Objection. Foundation.</p> <p>11 A. That would depend on the day.</p> <p>12 Q. Okay. Well, take a look at, on this</p> <p>13 page, take a look at August the 8th, 2008. Do</p> <p>14 you see those dates?</p> <p>15 A. Yes, I do.</p> <p>16 Q. This indicates that you shopped at --</p> <p>17 in Kew Gardens at 2:40 P.M., Forest</p> <p>18 Hills/Metropolitan Avenue at 2:54 P.M., and</p> <p>19 Ridgewood Metro at 3:15 P.M., right?</p> <p>20 A. Yes, I see that there.</p> <p>21 Q. And when you entered your reports of</p> <p>22 your mystery shops, you would enter the time</p> <p>23 that you went into the bank, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. So, at least on August 8, 2008, you</p>

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1 I. Livingston
 2 MR. PEARSON: Objection.
 3 A. Because --
 4 MR. LERNER: What's the objection?
 5 MR. PEARSON: Argumentative is the
 6 objection.
 7 MR. LERNER: I think you're coaching
 8 the witness. I would ask that you not
 9 engage in speaking objections and that you
 10 not interpose frivolous objections that are
 11 done -- that have no basis in law.
 12 MR. PEARSON: There's no coaching
 13 going on.
 14 BY MR. LERNER:
 15 Q. Why don't you know what hours you
 16 worked that day, Ms. Livingston?
 17 A. I -- I think I said I worked 8 to 5.
 18 I'm sorry, eight and a half hours for that day.
 19 Q. You claim to have worked eight and a
 20 half hours for The New York Post that day,
 21 right?
 22 A. Yes. I worked eight and a half hour
 23 days that --
 24 Q. Do you know as you sit here today what
 25 hours, what actual times during the day you were

1 I. Livingston
 2 working for The New York Post?
 3 A. It was October 2, 2008. I don't
 4 remember exactly what I did on October 2, 2008.
 5 Q. Do you know if you had any story
 6 published on October 3, 2008?
 7 A. I can't recall if I had a story
 8 published that day.
 9 Q. Why didn't you -- why did you leave
 10 the courthouse on October 2, 2008 to start
 11 mystery shopping at 1:30 P.M.?
 12 A. Why --
 13 Q. Yes.
 14 A. -- did I?
 15 Well, I believe that time would have
 16 been the time I was taking my lunch break and I
 17 performed a mystery shop --
 18 Q. Okay. But your lunch --
 19 A. -- at that time.
 20 Q. Your lunch break you indicated was
 21 half an hour long, right?
 22 A. Lunch -- lunch would be about a
 23 half-hour sometimes, yes.
 24 Q. And your -- from this record of your
 25 mystery shopping times, you're out of the

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1 I. Livingston
 2 courthouse for longer than half an hour, right?
 3 A. Yes, that's correct.
 4 Q. Do you -- do you know if you even went
 5 back to the courthouse that day after you left?
 6 A. I don't remember what I did that day.
 7 Q. Did you ask your supervisors for
 8 permission to leave the courthouse to go mystery
 9 shopping on that day?
 10 MR. PEARSON: Objection.
 11 A. I did not ask my supervisors for
 12 permission, no.
 13 Q. Did you at any time inform your
 14 supervisors in the year 2008 that you were
 15 leaving the courthouse to go mystery shopping?
 16 A. No.
 17 Q. Did you at any time during 2008 inform
 18 your supervisors that you were employed by
 19 Contemporary Staffing Solutions?
 20 MR. PEARSON: Objection.
 21 A. Did I ever tell my --
 22 Q. Supervisors that you were employed by
 23 Contemporary Staffing Solutions?
 24 A. I did not tell my bosses at The Post
 25 that I mystery shopped.

1 I. Livingston
 2 Q. Either for Contemporary Staffing
 3 Solutions or for Shop 'n Chek, right?
 4 A. That would be correct.
 5 Q. And you never told them that you had
 6 obligations for another employer that would
 7 require you to leave the courthouses during the
 8 day, right?
 9 MR. PEARSON: Objection.
 10 A. I didn't have obligations.
 11 Q. You never told them that you were
 12 leaving the courthouse to make money from
 13 another source, correct?
 14 A. I did not tell them I was leaving the
 15 courthouse to go do a mystery shop.
 16 Q. And the courthouse -- withdrawn.
 17 October 2, 2008 was not the only day
 18 you left the courthouse, right, to go to do
 19 mystery shopping, right?
 20 A. No.
 21 Q. You did it on many other days that you
 22 were employed and working for The Post at the
 23 Queens courthouses, right?
 24 A. During my downtime, my lunchtime, I
 25 would go and do a mystery shop.

<p style="text-align: right;">Page 406</p> <p>1 I. Livingston</p> <p>2 Q. You see the week starting Saturday,</p> <p>3 August 8; you see that?</p> <p>4 A. Yes.</p> <p>5 Q. On Monday, August 10, you recorded</p> <p>6 zero hours worked and eight hours of sick time,</p> <p>7 do you see that?</p> <p>8 A. It's hard to make out, but I -- yeah.</p> <p>9 Q. It's not hard on my copy. Would you</p> <p>10 like my copy? Can you see the 8.0 under -- for</p> <p>11 sick time on that day?</p> <p>12 A. I see -- it doesn't really look like</p> <p>13 an 8, but --</p> <p>14 Q. Well, my copy is as plain as day.</p> <p>15 Could I get you a copy that you can read?</p> <p>16 A. Okay.</p> <p>17 Q. Do you have any trouble seeing that?</p> <p>18 A. No, I can see that. It's much better.</p> <p>19 Q. And that's on August -- August 10,</p> <p>20 2009, right?</p> <p>21 A. I see August 10.</p> <p>22 Q. Uh-huh.</p> <p>23 A. And 2009, yes.</p> <p>24 Q. Well, Ms. Livingston, you mystery</p> <p>25 shopped on August 10, 2009. Do you recall that?</p>	<p style="text-align: right;">Page 407</p> <p>1 I. Livingston</p> <p>2 A. No, can you point that out?</p> <p>3 Q. Sure. If you go back to the</p> <p>4 spreadsheet from Contemporary Staffing Solutions</p> <p>5 and you look at August the 10th, 2009, it's on</p> <p>6 page FL3991.</p> <p>7 A. 399?</p> <p>8 Q. 1.</p> <p>9 A. 1?</p> <p>10 Q. The records indicate on that page on</p> <p>11 August 10, 3991, mystery shopping at 3:12 P.M.</p> <p>12 in Hillcrest, Fresh Meadows, 3:42 at</p> <p>13 Ridgewood/Downtown Branch and 4 P.M. at the</p> <p>14 Ridgewood Metro Branch. Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. Do you have any reason to dispute that</p> <p>17 you mystery shopped at those branches on those</p> <p>18 dates?</p> <p>19 A. No.</p> <p>20 Q. So on a day that you called in sick</p> <p>21 with The New York Post, you actually were</p> <p>22 performing services through Contemporary</p> <p>23 Staffing Solutions by mystery shopping at TD</p> <p>24 Bank, right?</p> <p>25 MR. PEARSON: Objection.</p>
<p style="text-align: right;">Page 408</p> <p>1 I. Livingston</p> <p>2 A. I must have felt better.</p> <p>3 Q. Did you call in to your supervisors at</p> <p>4 The New York Post and tell them that you felt</p> <p>5 better and that you were ready, willing and able</p> <p>6 to work as a reporter that day?</p> <p>7 A. I'm not aware that we can work a half</p> <p>8 day.</p> <p>9 Q. Did you -- did you make any</p> <p>10 notification to your supervisors that you were</p> <p>11 feeling better and could work the rest of the</p> <p>12 day if they needed you?</p> <p>13 You don't have any memory of doing</p> <p>14 that, do you?</p> <p>15 A. Well, no, but --</p> <p>16 Q. Okay.</p> <p>17 A. -- then I only have a couple of hours</p> <p>18 left on my shift.</p> <p>19 Q. And on Ms. -- Ms. Livingston, your</p> <p>20 grandmother passed on in January of 2010,</p> <p>21 correct?</p> <p>22 A. I had two grandmothers that passed</p> <p>23 away. I don't remember which one passed away</p> <p>24 then.</p> <p>25 Q. Your grandmother Bland?</p>	<p style="text-align: right;">Page 409</p> <p>1 I. Livingston</p> <p>2 A. Yes.</p> <p>3 Q. And --</p> <p>4 A. That's about right.</p> <p>5 Q. -- in January of 2010, you traveled</p> <p>6 and you took bereavement leave, right?</p> <p>7 A. I did take bereavement time, yes.</p> <p>8 Q. Okay. I would like to put in front of</p> <p>9 you a document we'll mark as Exhibit 21, which</p> <p>10 you produced in this litigation as your work</p> <p>11 calendars, and I would ask you to turn to page</p> <p>12 IL_415 of this document.</p> <p>13 (Livingston Exhibit 21, Work</p> <p>14 Calendars, bearing Bates Nos. IL-314 through</p> <p>15 1678, marked for identification, as of this</p> <p>16 date.)</p> <p>17 BY MR. LERNER:</p> <p>18 Q. Ms. Livingston, it's well into the</p> <p>19 document. If you go a page at a time, we're</p> <p>20 going to need to go off the record.</p> <p>21 A. I'm sorry, 4?</p> <p>22 MR. PEARSON: 415.</p> <p>23 THE WITNESS: 415?</p> <p>24 Q. Yeah. Actually, I'm going to direct</p> <p>25 you to 416.</p>

<p style="text-align: right;">Page 410</p> <p>1 I. Livingston</p> <p>2 A. 416.</p> <p>3 Q. Could you tell me when you're there?</p> <p>4 A. 414. 4 --</p> <p>5 MR. PEARSON: 416.</p> <p>6 THE WITNESS: 416. Okay.</p> <p>7 BY MR. LERNER:</p> <p>8 Q. And 416 reflects Wednesday, January</p> <p>9 27, 2010 as a -- you indicated that it's a</p> <p>10 bereavement day, correct?</p> <p>11 A. On Wednesday, January 27?</p> <p>12 Q. Yes.</p> <p>13 A. What day?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. Did you write "Bereavement day 5"?</p> <p>17 A. Yes, I believe I did.</p> <p>18 Q. And was that when -- when -- in the</p> <p>19 immediate aftermath of your grandmother Bland</p> <p>20 passing away?</p> <p>21 A. That was, yeah, that was some days</p> <p>22 after she died.</p> <p>23 Q. Okay. And in fact, her funeral was on</p> <p>24 the 22nd of January, right? It's at the top of</p> <p>25 the page.</p>	<p style="text-align: right;">Page 411</p> <p>1 I. Livingston</p> <p>2 A. Yes. If that's what I indicated yes.</p> <p>3 Q. So you didn't work on the 27th because</p> <p>4 you took it as a bereavement day, right?</p> <p>5 A. That's correct.</p> <p>6 Q. But, Ms. Livingston, that didn't stop</p> <p>7 you from mystery shopping on January 27, did it?</p> <p>8 MR. PEARSON: Objection.</p> <p>9 A. I don't know if I mystery shopped that</p> <p>10 day or not.</p> <p>11 Q. Well, turn in the Contemporary</p> <p>12 Staffing Solutions spreadsheet to page 3994,</p> <p>13 please.</p> <p>14 A. Okay.</p> <p>15 Q. This indicates that on January 27,</p> <p>16 2010, you mystery shopped at the TD Bank at</p> <p>17 Ridgewood Metro at 3:45 P.M. and then at the TD</p> <p>18 Bank in Middle Village at 4:05 P.M. Do you see</p> <p>19 that?</p> <p>20 A. I do see that.</p> <p>21 Q. And you have no reason to doubt the</p> <p>22 accuracy of those dates and times and branches,</p> <p>23 correct?</p> <p>24 A. No.</p> <p>25 Q. When you -- after you mystery shopped,</p>
<p style="text-align: right;">Page 412</p> <p>1 I. Livingston</p> <p>2 the observations that you made during the</p> <p>3 mystery shop had to be entered into a computer,</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. Or to a Website, right?</p> <p>7 A. Yes.</p> <p>8 Q. And you did that yourself, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Nobody entered that information for</p> <p>11 you, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Did -- and did you have a password to</p> <p>14 get onto the Contemporary Staffing Solutions TD</p> <p>15 Bank Website to do that?</p> <p>16 A. Yes.</p> <p>17 Q. And did anybody else have that</p> <p>18 password, to your knowledge?</p> <p>19 A. I don't think so.</p> <p>20 Q. And did you use the computer that was</p> <p>21 located in the courthouse in the Queens</p> <p>22 courthouse to enter those reports from time to</p> <p>23 time?</p> <p>24 A. Oh, I'm sorry. You're not talking</p> <p>25 about this day?</p>	<p style="text-align: right;">Page 413</p> <p>1 I. Livingston</p> <p>2 Q. I'm talking about at any time. Did</p> <p>3 you use the computer in the Queens courthouse to</p> <p>4 put in your reports after mystery shopping?</p> <p>5 A. I think on occasion. I think mostly I</p> <p>6 did it from home, but on occasion, I may have</p> <p>7 done it when I was at the courthouse.</p> <p>8 Q. On May 4, 2010, you had another death</p> <p>9 in your family and you took bereavement leave.</p> <p>10 Do you recall that?</p> <p>11 A. I don't recall the exact date, but,</p> <p>12 yeah, I did have another death in the family.</p> <p>13 Q. Your cousin Joeran?</p> <p>14 A. Joeran, yes.</p> <p>15 Q. And you took bereavement leave on May</p> <p>16 13 and 14. Do you recall that?</p> <p>17 A. Is there a page I should look at?</p> <p>18 Q. Yes. Could you turn to page IL_445 of</p> <p>19 your own calendar, please?</p> <p>20 A. 445?</p> <p>21 Q. Yes.</p> <p>22 A. Okay.</p> <p>23 Q. And do you see on 445 that on May 13</p> <p>24 and May 14 of 2010 you indicate bereavement day</p> <p>25 for each day; you see that?</p>

<p style="text-align: right;">Page 414</p> <p>1 I. Livingston</p> <p>2 A. Yes, I do.</p> <p>3 Q. On the Contemporary Staffing Solutions</p> <p>4 spreadsheet on page 3996, it indicates that you</p> <p>5 mystery shopped with the South Flushing TD Bank</p> <p>6 branch by telephone at 1:50 P.M. Do you see</p> <p>7 that?</p> <p>8 A. On May 13?</p> <p>9 Q. May 14.</p> <p>10 A. May 14? Yes, I see that.</p> <p>11 Q. Ms. Livingston, it is the case that on</p> <p>12 days that you were working for The Post, it was</p> <p>13 not always on your lunch hour or even at</p> <p>14 lunchtime that you went mystery shopping; isn't</p> <p>15 that correct?</p> <p>16 MR. PEARSON: Objection.</p> <p>17 A. I can take my lunch whenever I like.</p> <p>18 Q. Can you take your lunch at 10:30 in</p> <p>19 the morning?</p> <p>20 A. Actually, I can.</p> <p>21 Q. So if you mystery shopped at 10:30 in</p> <p>22 the morning on a -- on a New York Post workday,</p> <p>23 it's your testimony that that was your lunch</p> <p>24 break?</p> <p>25 A. If that's what time I took it, yeah,</p>	<p style="text-align: right;">Page 415</p> <p>1 I. Livingston</p> <p>2 that can be my lunch break, yes.</p> <p>3 Q. So anytime -- essentially, anytime you</p> <p>4 mystery shopped on a day you were working for</p> <p>5 The Post was your lunch break?</p> <p>6 MR. PEARSON: Objection.</p> <p>7 Q. Is that your testimony?</p> <p>8 A. When I would take my lunch, I could</p> <p>9 take my lunch at any time. I didn't know that</p> <p>10 we had -- or I was never told that we needed to</p> <p>11 take our lunch at a specific time, but if time</p> <p>12 permitted --</p> <p>13 Q. Can you turn in the spreadsheet --</p> <p>14 A. I'm sorry. I -- I was still talking.</p> <p>15 Q. Oh, I'm sorry.</p> <p>16 A. I was just saying if time permitted</p> <p>17 and that was a convenient time for me to take my</p> <p>18 lunch, and I could do a mystery shop, if that's</p> <p>19 what I chose to do, then -- then I would do it,</p> <p>20 but my priority was always doing my job.</p> <p>21 Q. And was -- was it -- was it the case</p> <p>22 that mystery shops were on your lunch break even</p> <p>23 when they happened one after another on the same</p> <p>24 day and spanned a period of 90 minutes?</p> <p>25 A. Well, it would depend. If I was</p>
<p style="text-align: right;">Page 416</p> <p>1 I. Livingston</p> <p>2 driving between shop locations, then I could</p> <p>3 easily be on the phone or calling someone or</p> <p>4 reaching out doing my job as a Queens court</p> <p>5 reporter.</p> <p>6 So mystery shops would take two</p> <p>7 minutes, five minutes, you know, but in between</p> <p>8 there, I was always doing my job.</p> <p>9 Q. You don't have any specific</p> <p>10 recollection of phone calls that you made during</p> <p>11 drives in between TD Banks, do you?</p> <p>12 A. I don't have any specific recollection</p> <p>13 of -- of specific phone calls with specific</p> <p>14 people, but I know that my job -- my priority</p> <p>15 was always my job as a reporter for The New York</p> <p>16 Post. So if I was -- if I needed to talk to</p> <p>17 someone at the DA's Office, that's what I would</p> <p>18 do.</p> <p>19 Q. And if you were out of the courthouse</p> <p>20 doing mystery shop and someone came to your desk</p> <p>21 in the courthouse to come and talk to you, they</p> <p>22 wouldn't be able to speak to you because you</p> <p>23 would be out mystery shopping, right?</p> <p>24 MR. PEARSON: Objection.</p> <p>25 Q. That's a yes or no question.</p>	<p style="text-align: right;">Page 417</p> <p>1 I. Livingston</p> <p>2 A. If I am not in the Queens courthouse</p> <p>3 office, New York Post office, then obviously if</p> <p>4 someone did walk in there, I wouldn't have been</p> <p>5 there for them to see me, but --</p> <p>6 Q. And that would include lawyers, court</p> <p>7 personnel, or other sources that would not be</p> <p>8 able to find you if they wanted to speak to you</p> <p>9 while you were out mystery shopping, right?</p> <p>10 MR. PEARSON: Objection.</p> <p>11 A. While I was out mystery shopping, it</p> <p>12 did not impede my job as a reporter for The New</p> <p>13 York Post.</p> <p>14 Q. Well, if somebody -- how would you</p> <p>15 even know if someone had come to find you and</p> <p>16 knocked on the door of your office and left</p> <p>17 because you weren't there? You wouldn't even</p> <p>18 know that, would you?</p> <p>19 A. If someone wanted to reach me and I</p> <p>20 wasn't there, then they're -- they would have</p> <p>21 reached out to me and I would -- I would have</p> <p>22 found out and I would have been able to talk to</p> <p>23 them, if that was the case.</p> <p>24 Q. But you're speculating about that,</p> <p>25 right?</p>

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1 I. Livingston
 2 MR. PEARSON: Objection.
 3 A. I don't know if -- if that ever
 4 happened. If it did happen, then -- then
 5 obviously I wasn't -- my job did not pertain to
 6 me being in that office throughout the entire --
 7 all the hours that I worked. Sometimes I did
 8 work for The Post and I wasn't in the Queens
 9 courthouse, in that office or even in the
 10 building.
 11 So that could happen at any time.
 12 Q. And you actually -- you wouldn't know
 13 if it happened because you weren't there to
 14 receive the person, right?
 15 A. If I wasn't there, obviously I could
 16 not have spoken to that person.
 17 Q. And -- and if the phone rang at your
 18 desk in the courthouse, you wouldn't be there to
 19 pick it up, right?
 20 A. No, I would not be there to pick it
 21 up, but there is voice mail on the machine. But
 22 a lot of times people contacted me via my cell
 23 phone.
 24 Q. And could you access that voice mail
 25 from your cell phone?

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1 I. Livingston
 2 someone wanted to give me a story -- first of
 3 all, if someone wanted to give me a story and
 4 they walked into the -- the office there, we
 5 couldn't talk there because of the -- the fact
 6 that the Daily News may or may not have been
 7 present. So I --
 8 Q. Wasn't it --
 9 A. I don't believe that ever happened.
 10 Q. Wasn't it your job to be a good
 11 reporter from 9 to 5, Monday through Friday, at
 12 the Queens courthouse?
 13 A. My job --
 14 MR. PEARSON: Objection.
 15 A. -- was to be a good reporter.
 16 I'm sorry.
 17 My job was to be a good reporter, not
 18 just between 9 to 5, but my job didn't just
 19 encompass being a reporter between 9 and 5.
 20 Sometimes I worked before 9. Sometimes I worked
 21 after 9. Sometimes well after 9. Sometimes in
 22 the middle of the night.
 23 Q. Were you being a good reporter when
 24 you were inside a TD Bank talking to a customer
 25 service representative and getting paid to do

1 I. Livingston
 2 A. Yes.
 3 Q. Your office at the Queens courthouse
 4 was shared with reporters from other newspapers,
 5 correct?
 6 A. That's correct.
 7 Q. So there was a desk in that office for
 8 the Daily News reporter, right?
 9 A. Yes.
 10 Q. And there was a desk in that office
 11 for the Newsday reporter?
 12 A. Yes.
 13 Q. And do you know if anybody ever came
 14 to the office to give you information or give
 15 you a scoop on a story and, in your absence,
 16 they decided to give it to the Daily News or the
 17 Newsday reporter?
 18 A. I don't believe that ever happened.
 19 Q. How -- how -- what's the basis of your
 20 belief that that never happened?
 21 A. Because I was a good -- I am a good
 22 reporter. I was a very good reporter at the
 23 Queens courthouse, and I pretty much knew
 24 everyone in the court -- in the courts, from the
 25 court officers to the court clerks, and if

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1 I. Livingston
 2 mystery shopping?
 3 MR. PEARSON: Objection.
 4 A. Are you asking if I was a good
 5 reporter when I was in TD Bank?
 6 Q. I'm asking if you were being a good
 7 reporter when you were mystery shopping at TD
 8 Bank?
 9 MR. PEARSON: Objection.
 10 Q. Yes or no?
 11 A. I was still being a good reporter, of
 12 course, yes.
 13 Q. Were you -- and were you being a good
 14 reporter when you left the courthouse while
 15 court was in session during the hours of 9 to 5
 16 and you were not there in the courtroom to watch
 17 the proceedings?
 18 MR. PEARSON: Objection. Foundation.
 19 A. I think you're assuming that there was
 20 something going on in the courtroom -- in the
 21 courthouse or in a courtroom that I needed to be
 22 there for, and if I needed to be there, I was
 23 there; I wasn't out mystery shopping. I didn't
 24 mystery shop during times that was pertinent to
 25 my job.

<p style="text-align: right;">Page 426</p> <p>1 I. Livingston</p> <p>2 A. If I'm not in the court building, then</p> <p>3 I am not meeting with those people, but that</p> <p>4 does not mean I am not talking to people that I</p> <p>5 still need to be talking to.</p> <p>6 Q. But you can't testify here with any</p> <p>7 specific recollection that you spoke to a source</p> <p>8 when you were traveling to mystery shop, right?</p> <p>9 A. I can't recall on any particular day.</p> <p>10 This was years ago.</p> <p>11 Q. Thank you.</p> <p>12 And when you were traveling to go</p> <p>13 mystery shopping at a TD Bank location in</p> <p>14 Queens, you weren't at the civil courthouse</p> <p>15 either, right?</p> <p>16 A. If I was at a -- a bank, then, no, I</p> <p>17 wasn't at the Sutphin courthouse, no.</p> <p>18 Q. Ms. Livingston, I'm going to show you</p> <p>19 what has been marked as Exhibit 22 -- sorry, 23.</p> <p>20 (Livingston Exhibit 23, Shop History</p> <p>21 of Ikimulisa Livingston, bearing Bates Nos.</p> <p>22 NYP-FL003980 through 3986, marked for</p> <p>23 identification, as of this date.)</p> <p>24 BY MR. LERNER:</p> <p>25 Q. Ms. Livingston, Exhibit 23 is a copy</p>	<p style="text-align: right;">Page 427</p> <p>1 I. Livingston</p> <p>2 of Exhibit -- is a copy of Exhibit 18, the TD</p> <p>3 Bank spreadsheet, with one difference, which is</p> <p>4 that we've highlighted in yellow those mystery</p> <p>5 shops that occurred on days when you were</p> <p>6 working for The New York Post, according to your</p> <p>7 time sheets. Do you understand that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Can you just take a minute to</p> <p>10 turn the pages of Exhibit 23. Do you see how</p> <p>11 we've highlighted certain mystery shops?</p> <p>12 A. Yes, I see. I see the highlights.</p> <p>13 Q. Do you have any reason to dispute that</p> <p>14 you mystery shopped on this -- you had --</p> <p>15 withdrawn.</p> <p>16 The highlighted mystery shops number</p> <p>17 roughly a hundred or more in 2008 alone, do you</p> <p>18 see that?</p> <p>19 A. I haven't counted them, but if you say</p> <p>20 so.</p> <p>21 Q. But you don't dispute that it's --</p> <p>22 it's a significant number of mystery shops,</p> <p>23 right?</p> <p>24 A. I'm sorry, I don't -- I don't know</p> <p>25 what that means.</p>
<p style="text-align: right;">Page 428</p> <p>1 I. Livingston</p> <p>2 Q. Okay. Let me show you -- we're going</p> <p>3 to mark a document Bates-numbered NYP-FL328</p> <p>4 through 331 as Exhibit 24.</p> <p>5 (Livingston Exhibit 24, Self-Appraisal</p> <p>6 for Ikimulisa Livingston, bearing Bates Nos.</p> <p>7 NYP-FL000328 through 331, marked for</p> <p>8 identification, as of this date.)</p> <p>9 BY MR. LERNER:</p> <p>10 Q. This is your 2008 Performance</p> <p>11 Evaluation, do you see that?</p> <p>12 A. I do see it.</p> <p>13 Q. And you got a rating of Occasionally</p> <p>14 Meets Standards in this performance evaluation,</p> <p>15 right? You see that?</p> <p>16 A. I see that.</p> <p>17 Q. And in the overall performance</p> <p>18 summary, you were told that you did a great job</p> <p>19 providing day-to-day notes for the Sean Bell</p> <p>20 trial, but you needed work developing sources</p> <p>21 that would provide stories for the paper that</p> <p>22 are longer than briefs and have a better</p> <p>23 disposition when your stories get cut.</p> <p>24 Do you see that?</p> <p>25 A. I do see that.</p>	<p style="text-align: right;">Page 429</p> <p>1 I. Livingston</p> <p>2 Q. I'm going to mark your -- okay. I'm</p> <p>3 also placing before you what has been previously</p> <p>4 marked as Exhibit 10 to your deposition, and if</p> <p>5 you could turn to page 334 of this exhibit,</p> <p>6 which is your 2009 APA, it states under Areas</p> <p>7 For Focus: "Kim rarely suggests story ideas and</p> <p>8 must do a better job at this. The key to a good</p> <p>9 newspaper and Website is variety. In addition,</p> <p>10 Monday enterprise is very important and Kim</p> <p>11 never pitches or develops her own stories.</p> <p>12 "Overall Performance Summary: Kim</p> <p>13 needs to be more diligent about generating her</p> <p>14 own story ideas, slice of life pieces,</p> <p>15 investigations. This is a rapidly changing news</p> <p>16 culture and Kim has to keep up with it." And</p> <p>17 your rating was 2, "Needs Improvement."</p> <p>18 Do you see that?</p> <p>19 A. I see it.</p> <p>20 Q. So your supervisors in 2009 criticized</p> <p>21 you for not generating your own story ideas or</p> <p>22 slice of life pieces or investigations or</p> <p>23 pitching or developing your own stories,</p> <p>24 correct?</p> <p>25 A. That's what's written here.</p>

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1 I. Livingston
 2 Q. And your supervisors when they wrote
 3 this in 2009 had not been told by you that you
 4 were engaged in a mystery shopping, right?
 5 A. Had I told them I was mystery
 6 shopping? No.
 7 Q. So you're receiving criticisms in --
 8 in '08 and '09 that you need to develop sources
 9 and provide more in-depth stories and you needed
 10 to generate more of your own story ideas at a
 11 time when, during the day on multiple occasions,
 12 you've been leaving the courthouse to do mystery
 13 shopping, correct?
 14 A. I'm sorry, are you referring to 2009
 15 or 2008?
 16 Q. 2008 and 2009.
 17 A. Well, 2009 I -- I wasn't in the
 18 courthouse.
 19 Q. Okay. But your 2009 APA covered the
 20 last six months of 2008 when you were still in
 21 the courthouse, correct?
 22 A. I believe, yeah, it may -- yeah, it
 23 covered part of that, yes.
 24 Q. So, Ms. Livingston, when you received
 25 this criticism, did you -- did you discontinue

1 I. Livingston
 2 your mystery shopping?
 3 A. Are you asking if I continued mystery
 4 shopping after receiving these evaluations?
 5 Q. Yes.
 6 A. Yes, I continued mystery shopping.
 7 Q. And you continued that even though
 8 your supervisors were pressing you to do more
 9 investigations and develop more of your own
 10 story ideas and your own sources, right?
 11 A. Throughout my time at the Queens
 12 courthouse, and even afterwards, I gave them
 13 story ideas as well as -- actually, yeah, I gave
 14 them a lot of story ideas, and none of them were
 15 good enough for the editors.
 16 Q. And if you look at Exhibit 23, which
 17 is the highlighted document?
 18 A. Yes.
 19 Q. You will see that on days throughout
 20 2008, you were going mystery shopping during the
 21 afternoon hours, sometimes at more than one bank
 22 on a given day; that's correct, isn't it?
 23 A. I haven't gone through the entire
 24 list, but I did do mystery shops during my
 25 downtime or during lunchtime.

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1 I. Livingston
 2 Q. You did mystery shops during the day
 3 between 9 and 5 when you were working at The
 4 Post, right?
 5 A. As I said, my job just wasn't 9 to 5,
 6 but I did do mystery shops between 9 -- 9 and 5.
 7 Q. And it never occurred to you to stop
 8 doing the mystery shopping and focus your energy
 9 instead on developing sources and developing
 10 investigative pieces in the courthouse?
 11 MR. PEARSON: Objection.
 12 A. One had nothing to do with the other.
 13 I continued to mystery shop, but I was also very
 14 dedicated to my job. Mystery shopping was
 15 basically -- my priority was my job.
 16 Q. And you used the term "downtime," Ms.
 17 Livingston. How would you define "downtime"
 18 between the hours of 9 and 5 when you're working
 19 as a reporter for The New York Post?
 20 A. I would describe downtime as when it's
 21 a slow day.
 22 Q. Isn't that the time that you're
 23 supposed to be working on your own investigative
 24 ideas, developing sources, and trying to further
 25 stories?

1 I. Livingston
 2 A. And I do that.
 3 Q. Well, you didn't do it when you were
 4 mystery shopping at TD Bank --
 5 A. I'm sorry, I --
 6 Q. -- or for Shop 'n Chek, correct?
 7 A. -- disagree --
 8 MR. PEARSON: Objection.
 9 A. I disagree with you. I did do that.
 10 Q. You did -- your testimony is that
 11 while you're mystery shopping at TD Bank or at
 12 Shop 'n Chek, you're also working for The New
 13 York Post developing story ideas and developing
 14 sources; is that correct?
 15 MR. PEARSON: Objection.
 16 A. As I stated, my priority was my job at
 17 The New York Post.
 18 Q. How many stories did you develop at TD
 19 Bank? Name one.
 20 A. How many stories did I develop at TD
 21 Bank?
 22 Q. While you were mystery shopping at TD
 23 Bank?
 24 A. I don't know.
 25 Q. How many stories did you develop while

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<p>1 I. Livingston</p> <p>2 you were mystery shopping at Office Depot?</p> <p>3 A. I don't know. I don't recall.</p> <p>4 Q. How many sources did you develop by</p> <p>5 mystery shopping at TD Bank?</p> <p>6 A. Oh, I don't know.</p> <p>7 Q. Did a lawyer ever accompany you in the</p> <p>8 car to mystery shop at TD Bank?</p> <p>9 A. No.</p> <p>10 Q. How many civil filings did you go</p> <p>11 through while you were mystery shopping at TD</p> <p>12 Bank?</p> <p>13 A. I -- I don't know.</p> <p>14 Q. How many trials or arraignments or</p> <p>15 sentencings did you attend while you were</p> <p>16 mystery shopping at TD Bank?</p> <p>17 A. If I am at TD Bank, I am -- obviously</p> <p>18 I'm not in another place at the same time.</p> <p>19 Q. So that's none, right?</p> <p>20 MR. PEARSON: Objection.</p> <p>21 A. If there was an arraignment I needed</p> <p>22 to attend, I was at the arraignment. If there</p> <p>23 was a court proceeding I needed to be at, I was</p> <p>24 at the court proceeding. If there were</p> <p>25 witnesses to something for a story that was of</p>	<p>1 I. Livingston</p> <p>2 interest to The New York Post, I was</p> <p>3 interviewing those witnesses. If there was a</p> <p>4 lawyer I needed to speak to regarding a case, I</p> <p>5 was speaking to that lawyer.</p> <p>6 Q. Ms. Livingston, there was no question</p> <p>7 pending so I'm going to move to strike that.</p> <p>8 MR. PEARSON: Objection to the strike.</p> <p>9 Q. How would you know --</p> <p>10 MR. PEARSON: There was a question.</p> <p>11 Q. How would you know if there was an</p> <p>12 arraignment in an arraignment part that you</p> <p>13 needed to attend in advance?</p> <p>14 A. How would I know?</p> <p>15 Q. Yes.</p> <p>16 A. If there was a breaking story or a --</p> <p>17 a story about -- a newsworthy story going on in</p> <p>18 arraignments, then I would know about it because</p> <p>19 of my contacts within the courthouse.</p> <p>20 During the course of --</p> <p>21 Q. Would --</p> <p>22 A. I'm sorry.</p> <p>23 Q. You know about it --</p> <p>24 A. I'm sorry, I --</p> <p>25 Q. -- in advance before you even got to</p>
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<p>1 I. Livingston</p> <p>2 the courthouse?</p> <p>3 A. I'm sorry, I would like to -- I was</p> <p>4 saying --</p> <p>5 Q. The question was how would you know if</p> <p>6 you needed to be in an arraignment part? That</p> <p>7 was the question.</p> <p>8 A. And I stated that my contacts would</p> <p>9 let me know if there was a newsworthy story</p> <p>10 going on in the arraignments. My job was not</p> <p>11 sitting in arraignments all day watching various</p> <p>12 arraignments happen.</p> <p>13 Q. And isn't it the case that sometimes</p> <p>14 your contacts wouldn't know or wouldn't advise</p> <p>15 you that there was an important arraignment that</p> <p>16 was going to happen in the courtroom?</p> <p>17 A. I -- I didn't miss any arraignments</p> <p>18 because of mystery shopping.</p> <p>19 Q. Did you ever miss sentencings?</p> <p>20 A. No.</p> <p>21 Q. Did you ever miss a sentencing?</p> <p>22 A. I'm sorry, did I ever miss a</p> <p>23 sentencing?</p> <p>24 Q. Yes.</p> <p>25 A. Any sentencing?</p>	<p>1 I. Livingston</p> <p>2 Q. Yes, because of mystery shopping?</p> <p>3 A. No.</p> <p>4 Q. Did you ever get scooped by the Daily</p> <p>5 News while you were working at the courthouse?</p> <p>6 A. Did I ever get scooped? Did I have a</p> <p>7 story that the Daily News did not have?</p> <p>8 Q. Uh-huh. Yes.</p> <p>9 A. That happened, but it also happened in</p> <p>10 the reverse. I also had stories that the Daily</p> <p>11 News did not have.</p> <p>12 Q. Is that because Nicole Bode at the</p> <p>13 Daily News was mystery shopping?</p> <p>14 A. I don't know if --</p> <p>15 MR. PEARSON: Objection.</p> <p>16 A. I don't know if Nicole was mystery</p> <p>17 shopping or not.</p> <p>18 Q. Did you ever bump into her during</p> <p>19 mystery shopping?</p> <p>20 A. Did I bump into Nicole at TD Bank?</p> <p>21 Q. Yes.</p> <p>22 A. No.</p> <p>23 Q. So if -- if Nicole Bode got scooped,</p> <p>24 it wasn't because, to your knowledge, it wasn't</p> <p>25 because she was out mystery shopping, right?</p>

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1 I. Livingston
 2 MR. PEARSON: Objection.
 3 Q. They weren't personal conversations,
 4 they were work conversations, right?
 5 A. They were conversations -- I wouldn't
 6 have a conversation with Zach unless I was -- it
 7 was related to work.
 8 Q. Did you ever tell Zach during any of
 9 those conversations that you had a job that
 10 required you to leave the courthouse during the
 11 regular workday?
 12 A. I didn't have a job.
 13 MR. PEARSON: Objection.
 14 Q. Did you ever tell Zach Haberman that
 15 you had a job doing mystery shopping that
 16 required you to leave the courthouse during the
 17 day?
 18 A. I did not have another job, but I
 19 didn't tell Zach that I mystery shopped, no.
 20 Q. You did not tell Mr. Haberman that you
 21 did mystery shopping, correct?
 22 A. I think I answered that.
 23 Q. So --
 24 A. Yes.
 25 Q. So -- and you didn't tell him even

1 I. Livingston
 2 though he got upset with you on the phone from
 3 time to time, right?
 4 A. I don't understand what one has to do
 5 with the other.
 6 Q. Well, if he was complaining to you
 7 about the amount of sources you had or the
 8 effort you were putting in or whether or not you
 9 had gotten a story, and you were outside the
 10 courthouse on that day doing mystery shopping,
 11 did you ever offer that up as an explanation for
 12 why you had not lived up to his expectations?
 13 MR. PEARSON: Objection.
 14 A. Our conversations were not about those
 15 things that you described.
 16 Q. You never told him that you were
 17 mystery shopping, correct?
 18 A. I think I have stated twice that I
 19 have -- I did not tell him that I mystery
 20 shopped.
 21 Q. And you didn't tell Mr. Haberman or
 22 your other editors, for that matter, that you
 23 were mystery shopping because you didn't think
 24 that they would approve of mystery shopping,
 25 right?

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1 I. Livingston
 2 MR. PEARSON: Objection.
 3 A. No.
 4 Q. Well, you --
 5 A. That's not why I didn't tell them.
 6 Q. You kept it a secret for five years
 7 while you were mystery shopping, right?
 8 MR. PEARSON: Objection.
 9 A. I -- I didn't tell my -- my bosses at
 10 The Post, no, but it wasn't a secret.
 11 Q. You didn't tell them because you
 12 didn't think that they would approve mystery
 13 shopping during the day, right?
 14 A. I didn't think they would --
 15 MR. PEARSON: Objection. Asked and
 16 answered.
 17 Q. Did you think that they would approve
 18 your mystery shopping multiple times during a
 19 The New York Post workday if you had asked them
 20 for permission?
 21 A. I did not not tell them because I
 22 thought they would approve or disapprove.
 23 Q. So why did you not tell them?
 24 A. Why did I not tell them?
 25 Q. That's the question.

1 I. Livingston
 2 A. It wasn't pertinent to The New York
 3 Post.
 4 Q. Even though you left the courthouse
 5 where your job duty station was to go do mystery
 6 shopping during the days you worked for The
 7 Post, you didn't think that it was pertinent to
 8 your job at The New York Post?
 9 A. As I stated, my job was not just
 10 necessarily at the Queens courthouse. I worked
 11 outside of the Queens courthouse doing my job.
 12 During hours that were outside of 9 to 5, it did
 13 not seem relevant to me, no.
 14 Q. So your explanation is that because
 15 some of your duties as a Queens court reporter
 16 could be done outside the courthouse, that doing
 17 mystery shopping outside the courthouse, which
 18 is not a New York Post duty, was consistent with
 19 your job for The New York Post?
 20 MR. PEARSON: Objection.
 21 A. My explanation is that my mystery
 22 shopping was not -- I'll rephrase that. My job
 23 priority, as I stated before, was working for
 24 The New York Post, was being a reporter for The
 25 New York Post and covering everything that I

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1 I. Livingston
 2 Q. Yes? The answer is yes?
 3 A. Yes.
 4 Q. All right. What was that
 5 conversation?
 6 A. During one of the APA evaluations, I
 7 think Michelle actually said that during --
 8 during time when things are slow, that I
 9 should -- and Greenfield maybe as well -- that I
 10 should comb the Internet looking for stories, go
 11 to various Websites. Michelle specifically said
 12 I should go out and cruise neighborhoods looking
 13 for neighborhood stories, that sort of thing.
 14 Q. And what about Zach Haberman, did you
 15 ever have that conversation with him?
 16 A. I don't recall having a specific
 17 conversation with him.
 18 Q. And did you ever have a conversation
 19 with a supervisor about downtime while you were
 20 working in the Queens courthouse?
 21 A. I don't recall a specific
 22 conversation.
 23 Q. Did you ever tell Michelle or Dan or
 24 Haberman that during your downtime you thought
 25 you could go mystery shopping?

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1 I. Livingston
 2 Q. My question was if you could be
 3 meeting with a source or mystery shopping, which
 4 should you be doing?
 5 MR. PEARSON: Objection.
 6 A. I thought I answered the question.
 7 Q. So what is the answer?
 8 A. I said that if -- if there was a
 9 source, someone that I needed to meet with, then
 10 I would meet with that person. I didn't need to
 11 do a mystery shop.
 12 Q. And if you could be meeting with an
 13 assistant district attorney in the Queens
 14 criminal court or go mystery shopping, which
 15 should you choose to do?
 16 MR. PEARSON: Objection.
 17 A. If I had a meeting with an ADA, I
 18 would have had a meeting with the -- with the
 19 assistant district attorney rather than going
 20 mystery shopping. As I said, my priority was my
 21 job, and if there was --
 22 Q. If you could be --
 23 A. If there was a source that I needed to
 24 meet with, I would meet with that person.
 25 Q. And if you could be working to set up

1 I. Livingston
 2 A. As I've stated before, I never told
 3 them about my mystery shopping.
 4 Q. When they told you about downtime
 5 being to be used for looking for stories and
 6 looking through the Internet, was that a
 7 surprise to you or was that advice consistent
 8 with your understanding of what your job was as
 9 a reporter?
 10 A. I understand that to be what you --
 11 that you're -- you're basically always looking
 12 for a story. Even if you're not working, you're
 13 looking for stories.
 14 Q. And that included when you were in the
 15 Queens courthouse, right?
 16 A. Yes.
 17 Q. Ms. Livingston, you stated earlier
 18 that The New York Post was your priority. If
 19 you could be meeting with a source or going
 20 mystery shopping, in your view, which should you
 21 be doing?
 22 A. If there was a source that I needed to
 23 meet with, obviously I would meet with the
 24 source. I, as I stated, I didn't -- I didn't
 25 need to mystery shop.

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1 I. Livingston
 2 a meeting with a source or an assistant district
 3 attorney or a court officer on the one hand or
 4 mystery shopping on the other hand, which should
 5 you do as a New York Post Queens courthouse
 6 reporter?
 7 MR. PEARSON: Objection.
 8 A. As I -- as I stated, that there are
 9 many times that I would be on the phone reaching
 10 out to someone and sometimes you had to wait
 11 till people called you back.
 12 Q. So would you agree that your priority
 13 should be working to set up meetings with
 14 sources in the courthouse over and above going
 15 mystery shopping?
 16 A. My priority was my job, was -- was
 17 setting up meetings, was meeting with people.
 18 Those were my priorities at all times.
 19 Q. My question was: Should your priority
 20 be working to set up meetings with sources or
 21 should it be mystery shopping?
 22 A. That was my priority.
 23 Q. Setting up meetings to meet with
 24 sources?
 25 A. Certainly. Yes.

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x
5 AUSTIN FENNER and
6 IKIMULISA LIVINGSTON,

7
8 Plaintiffs,

9 v.

09 Civ. 9832

10 (BSJ) (RLE)

11 NEWS CORPORATION, NYP HOLDINGS,
12 INC. d/b/a THE NEW YORK POST
13 and DAN GREENFIELD and
14 MICHELLE GOTTHELF,

15 Defendants.

16 -----x
17
18 DEPOSITION OF IKIMULISA LIVINGSTON

19 New York, New York

20 May 6, 2013

21
22 Reported by:

23 MARY F. BOWMAN, RPR, CRR

24 JOB NO. 61106
25

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Q. OK. You mentioned that you noticed a gentleman that seemed to be with the two of you when you got up to the elevator on the third floor in the 1211 Avenue of the Americas building. Is that correct?

A. I don't remember what floor we exited from the elevator, but he was on the elevator with us.

Q. Whichever floor was -- whichever floor the credit union was on, right?

A. Whichever floor the credit union was on, I noticed him when he was on the elevator with us when he came down from whatever floor we were on, the building across the street, he came out of the elevator, he followed us as we walked across the street, got in the same elevator we did. And after we stepped out of the elevator, I asked Amy about the guy who is following us.

Q. OK. Do you know who he is?

A. No, I don't.

Q. Did you speak to him at all?

A. No, I did not.

Q. And when was the last time you saw

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LIVINGSTON

Q. Who is the editor you are referring to in your last answer?

A. The editor who sat across from me during my deposition?

Q. Yes.

A. That would have been, in January, that would have been Michelle Gotthelf.

Q. Was Jesse Angelo at your deposition?

A. No. Jesse Angelo was not at the January deposition or the deposition I just had in February.

Q. In fact, at the time, Jesse Angelo wasn't -- was running the daily, he wasn't actually involved in the New York Post, correct?

MR. PEARSON: Objection.

A. I don't know what Jesse Angelo's duties would have been during my deposition.

Q. So it is your testimony that your termination was in retaliation for what exactly?

MR. PEARSON: Objection.

A. I thought I answered that a moment

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LIVINGSTON

him that day?

A. I don't recall seeing him anymore after I exited the building.

Q. Now, you stated earlier and you state in your third amended complaint that you believe that the termination of your employment was retaliatory. What do you believe that was in retaliation for?

A. I believe that I was discriminated against when I was demoted from my Queens courthouse beat, and I believe every, every day after that, I have been discriminated against, and I believe my termination, in essence, since the Post -- since my supervisor -- since my editor at the Post sat across from me during my deposition, I think it was January of last year, and heard everything that went on in that deposition, including questions and answers in relation to any mystery shopping I did, and then this is the reason a year later that I'm terminated, I believe this is all retaliatory, related to, related to the lawsuit.

Page 21

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ago.

Q. Was it in retaliation for the filing of your lawsuit?

MR. PEARSON: Objection.

A. From the time I was demoted from my beat at Queens courthouse, I have been discriminated against by the New York Post by the editors there. I have been discriminated against since that time, and I believe this termination was as a result of the discrimination as well as retaliatory in regards to the lawsuit that was filed.

Q. And in what way have you been discriminated against at the New York Post since your deposition in January of 2012?

A. I am sorry, repeat that again.

Q. In what way were you discriminated against at the Post since your deposition in January of 2012?

A. As I stated, every day since my demotion from the Queens courthouse beat, I have been discriminated against. Every day that I was sent out on stories that my editors knew had no likelihood of making the

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2012 to the present, other than the meeting you described with Jesse Angelo, have you had any other contact with Jesse Angelo?

A. Yes.

Q. When was that?

A. I think it was in January, there was a going away party for Michael Hechtman, who was a long-time editor at the Post, and during the festivities, there was an occasion where Jesse and I, I guess we were passing one another, and Jesse Angelo intentionally looked away so he didn't have to say anything to me, which kind of reminds me of another black employee that was fired by the Post who told me about -- it just reminded me of Neil Graves, another black employee who had been fired by the Post who told me about -- he was walking down the street one day and saw Jesse Angelo and Jesse intentionally looked away so he wouldn't have to say anything to him.

Q. Do you know if Jesse looked away from you at the party because you're black?

MR. PEARSON: Objection.

A. I couldn't really tell you what his

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Q. January 2013?

A. Yes.

Q. Other than what you have testified to here today, so far, is there any other change, are there any changes in how you were treated since your last -- since your January 2012 deposition at the New York Post? Let me rephrase that.

Since January of 2012, when you were first deposed in this case, have there been any changes at the New York Post in the way you have been treated other than any of the things you have testified to here today so far?

A. Right now, I don't recall -- nothing else comes to mind right now in regards to that question.

Q. Do you think you were treated worse after January of 2012 or was it simply consistent treatment both before and after January of 2012?

MR. PEARSON: Objection.

A. As I stated, there was a continuation from the demotion from the

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reasoning for looking away was. I just know what he looked away when he could have just as easily said hello.

Q. Do you know if he looked away from white people at the party as well?

MR. PEARSON: Objection.

A. I wasn't watching him at the party. I just know that when there was an occasion when he and I passed near one another, he looked away.

Q. And did you say anything to him or did he say anything to you at the party?

A. As I just said, he looked away, so no, he didn't say anything to me.

Q. And is that the only occasion since January of 2012 other than your termination meeting where you have had any contact with Jesse Angelo?

A. Right now, I don't recall any other contact. Right now, I don't recall that.

Q. What month and year was the Hechtman party?

A. I believe that was in January of this year.

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Queens courthouse beat and every day was just a, pretty much a dead-end assignment that had little or no chance of making the paper.

Q. OK. Since January of 2012, have you had any conversations or communications with any editor or New York Post executive about your lawsuit?

A. I am sorry, what was the question again?

Q. Since January of 2012, have you had any conversations with any editor or New York Post executive about your lawsuit?

A. Not that I recall, no.

Q. Was the -- was the white reporter on the Williams story that was sent to another location, did that reporter get an interview of Williams?

A. I'm pretty sure -- I'm pretty sure I mentioned to you that I didn't know what that reporter got.

Q. So you don't know if that reporter was sent to a location that didn't bear fruit either, right?

MR. PEARSON: Objection.